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REPORT OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION*

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LETTER OF TRANSMITTAL

23 August 1991

Sir,

I have the honour to refer to article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination. In accordance with that article, the Committee on the Elimination of Racial Discrimination, established pursuant to the Convention, "shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities".

Although the problem of non-payment persists, I am pleased to inform you that during 1991 the Committee was able to adhere to its normal practice of holding two meetings. You will recall that the normal functioning of the Committee on the Elimination of Racial Discrimination has been disrupted in recent years owing to the non-payment of assessed contributions by a number of States parties.

The thirty-ninth session was notable for the introduction of a new procedure to improve implementation of the Convention in those States that have been overdue in the submission of periodic reports. Letters were sent to thirteen such States notifying them that the Committee at its fortieth session intended to review progress based upon the last report submitted and the discussion on that occasion. These procedures were followed at the fortieth session, where the position in twelve countries that were late in reporting was considered. The Committee at its fortieth session wrote to a further fourteen States that were late in submitting reports to say that it planned to consider their position at its forty-first session.

The Committee has agreed that henceforth the concluding observations at the end of the consideration of a State party report would be formulated by the Committee by consensus. It began this practice at its thirty-ninth session. In addition, the Committee decided that in examining the reports of States parties, members of the Committee must have access, as independent experts, to all other available sources of information, both governmental and non-governmental.

The Committee has also given active consideration to its possible contribution to the World Conference on Human Rights and the projected Third Decade to Combat Racism and Racial Discrimination.

The fortieth session was also notable for the holding of the first joint meeting with the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights. The purpose of that meeting was to identify the issues of common concern and to exchange views on them. Further contacts and exchanges of information are envisaged.

His Excellency
Mr. Javier Pérez de Cuéllar
Secretary-General of the United Nations
New York

At its 937th meeting, held today, 23 August 1991, the Committee unanimously adopted its 1991 report in fulfilment of its obligations under the Convention; it is submitted to you herewith for transmission to the General Assembly at its forty-sixth session.

Accept, Sir, the assurances of my highest consideration.

(Signed) Agha SHAHI
Chairman of the
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 23 August 1991, the closing date of the fortieth session of the Committee on the Elimination of Racial Discrimination, there were 129 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the fortieth session, 14 of the 129 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those that have made the declaration under article 14 are contained in annex I to the present report.

B. Sessions and agenda

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1991. The thirty-ninth (889th-913th meetings) and fortieth (914th-937th meetings) sessions were held at the United Nations Office at Geneva from 4 to 22 March and from 5 to 23 August 1991, respectively.

4. The agendas of the two sessions as adopted by the Committee are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their 13th meeting at United Nations Headquarters on 16 January 1990 1/ and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 1990.

6. The list of members of the Committee for 1990-1991, including those elected or re-elected on 16 January 1990, is as follows:

Name of member	Country of nationality	Term expires on 19 January
Mr. Mamoud ABOUL-NASR**	Egypt	1994
Mr. Hamzat AHMADU**	Nigeria	1994
Mr. Michael Parker BANTON**	United Kingdom of Great Britain and Northern Ireland	1994
Mr. Eduardo FERRERO COSTA	Peru	1992
Mr. Isi FOIGHEL	Denmark	1992
Mr. Ivan GARVALOV	Bulgaria	1992
Mr. Régis de GOUTTES*	France	1994
Mr. George O. LAMPTEY**	Ghana	1994
Mr. Carlos LECHUGA HEVIA*	Cuba	1994
Mr. Iouri A. RECHETOV	Union of Soviet Socialist Republics	1992
Mr. Jorge RHENAN SEGURA	Costa Rica	1992
Mrs. Shanti SADIQ ALI	India	1992
Mr. Agha SHAHI**	Pakistan	1994
Mr. Michael E. SHERIFIS**	Cyprus	1994
Mr. SONG Shuhua	China	1992
Mr. Kazimir VIDAS	Yugoslavia	1992
Mr. Rüdiger WOLFRUM*	Germany	1994
Mr. Mario Jorge YUTZIS	Argentina	1992

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* Elected on 16 January 1990.

** Re-elected on 16 January 1990.

7. All members of the Committee except Mr. Ahmadu and Mr. Foighel attended the thirty-ninth session. Mr. Aboul-Nasr attended from 11 to 22 March, Mr. Ferrero Costa from 4 to 15 March, Mr. Garvalov from 12 to 22 March, Mr. Rhenan Segura from 4 to 19 March and Mr. Sherifis from 11 to 22 March 1991. All members of the Committee except Mr. Foighel attended the fortieth session. Mr. Ahmadu attended from 14 to 23 August, Mr. Lechuga Hevia from 6 to 23 August, Mr. Sherifis from 6 to 19 August and Mr. Song from 7 to 23 August 1991. Mr. Rhenan Segura attended on 5 August and from 15 to 23 August 1991.

D. Officers of the Committee

8. The officers elected at the thirty-eighth session for a term of two years, in accordance with article 10, paragraph 2, of the Convention, continued to serve at the thirty-ninth and fortieth sessions. The officers of the Committee are as follows:

Chairman: Mr. Agha SHAHI

Vice-Chairmen: Mr. Eduardo FERRERO COSTA
Mr. George O. LAMPTEY
Mr. Kazimir VIDAS

Rapporteur: Mr. Michael Parker BANTON

E. Cooperation with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), 2/ both organizations were invited to attend the sessions of the Committee, but did not do so.

10. At the fortieth session, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the seventy-eighth session of the International Labour Conference, was made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Populations Convention, 1957 (No. 107), as well as other information in the report relevant to its activities.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-FIFTH SESSION

11. The Committee considered this item at its 898th, 900th, 911th, 912th and 913th meetings, held on 11, 12, 20 and 22 March 1991. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/45/402);

(b) Report of the Secretary-General on the question of financing the expenses of members of the Committee on the Elimination of Racial Discrimination (A/45/579);

(c) Note by the Secretariat on the developments relevant to the activities of the Centre for Human Rights (A/45/593);

(d) Note by the Secretary-General transmitting to the General Assembly the report of the third meeting of persons chairing the human rights treaty bodies convened pursuant to General Assembly resolution 44/135 of 15 December 1989 (A/45/636);

(e) Report of the Secretary-General on financing and staffing resources for the operations of treaty bodies (A/45/707);

(f) Relevant summary records of the Third Committee (A/C.3/45/SR.4-10 and 35-42);

(g) Reports of the Third Committee (A/45/745 and A/45/747);

(h) General Assembly resolutions 45/85, 45/88 and 45/89.

A. Action by the General Assembly at its forty-fifth session on the annual report submitted by the Committee under article 9, paragraph 2, of the Convention

12. The Rapporteur of the Committee introduced sub-item (a) of this item at the 898th meeting of the Committee. He observed that the report of the Committee had been considered by the General Assembly at its forty-fifth session jointly with item 1 on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination and an item on self-determination and decolonization. More than half the representatives of States who participated in the debate had referred to the work of the Committee and had emphasized that it played an indispensable role in combating racial discrimination and that the Committee's work was of the utmost significance. Most of them had spoken of the Committee's financial difficulties, and some speakers had referred to the number of overdue reports and had urged States parties to comply with their obligations. In its resolution 45/88, the General Assembly commended the Committee for its work with regard to the implementation of the Convention and the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination; called upon States parties to fulfil their obligations under article 9, paragraph 1, of the Convention and to submit in due time their periodic

reports on measures taken to implement the Convention; requested the Secretary-General to seek to obtain, at the earliest opportunity, the concurrence of the States parties to the Convention to the establishment of a "contingency reserve fund", as envisaged in Commission on Human Rights resolution 1990/25 of 27 February 1990; invited the Secretary-General to explore other possibilities of establishing a more secure basis for future financing of all the costs of the Committee and requested the Secretary-General to invite those States parties that were in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its forty-sixth session.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

13. The Chairman of the Committee introduced sub-item (b) of this item at the 898th meeting of the Committee and referred, in particular, to the report of the third meeting of persons chairing the human rights treaty bodies (A/45/636). The Committee took note of the report and discussed the conclusions and recommendations contained therein at its 898th, 900th, 911th, 912th and 913th meetings.

14. The Committee considered and approved the consolidated guidelines for the initial part of the reports of States parties, contained in the appendix to document A/45/636, revised its own general guidelines and decided that the final version of its revised general guidelines concerning the form and contents of reports by States parties under article 9, paragraph 1, of the Convention, as adopted at the 913th meeting, should be sent to States parties. The Committee also discussed arrangements for financing the Committee's sessions, including setting up a contingency reserve fund and amending the relevant provisions of the Convention to provide funding for the Committee from the regular budget of the United Nations. At the same time, the Committee expressed its satisfaction over the improvement in the Committee's financial situation, which had permitted the holding of the Committee's spring session in 1991 and expressed the hope that steps would eventually be taken to regularize the situation completely.

15. The Committee assigned six of its members to be responsible for liaison with human rights treaty bodies as well as with the Commission on Human Rights and its Subcommission on the Prevention of Discrimination and Protection of Minorities. The principal task of those members is to follow developments in the respective human rights organs and to keep the Committee informed of all developments relevant to its work. The Committee also assigned one of its members to be responsible for liaison with the European Parliament.

16. The Committee had preliminary discussions on a proposal for a general recommendation, in accordance with article 9, paragraph 2, of the Convention, on indirect discrimination, as well as on the idea of holding joint sessions of working groups of two or more committees to explore specific issues.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Status of submission of reports by States parties

1. Reports received by the Committee

17. From the establishment of the Committee on the Elimination of Racial Discrimination until the closing date of its fortieth session (23 August 1991), a total of 1,101 reports under article 9, paragraph 1, of the Convention were due from States parties as follows: 129 initial reports, 127 second periodic reports, 127 third periodic reports, 123 fourth periodic reports, 115 fifth periodic reports, 107 sixth periodic reports, 101 seventh periodic reports, 90 eighth periodic reports, 79 ninth periodic reports, 65 tenth periodic reports and 38 eleventh periodic reports.

18. By the end of the fortieth session, a total of 827 reports had been received by the Committee as follows: 121 initial reports, 111 second periodic reports, 107 third periodic reports, 100 fourth periodic reports, 89 fifth periodic reports, 81 sixth periodic reports, 73 seventh periodic reports, 62 eighth periodic reports, 46 ninth periodic reports, 28 tenth periodic reports and 9 eleventh periodic reports.

19. In addition, 73 supplementary reports containing additional information were received from the States parties, submitted either on the initiative of the States parties concerned or at the request of the Committee following its examination of their respective initial or periodic reports under the Convention.

20. During the period under review, i.e. between the closing dates of the Committee's thirty-eighth and fortieth sessions (24 August 1990 and 23 August 1991) 28 reports were received by the Committee: one fifth periodic report, one sixth periodic report, two seventh periodic reports, four eighth periodic reports, four ninth periodic reports, seven tenth periodic reports and nine eleventh periodic reports.

21. The relevant information concerning all reports received during the period under review is contained in table 1 below.

22. As the information in table 1 shows, 27 of the 28 reports received during the period under review were not submitted on time or before the deadline provided for under article 9, paragraph 1, of the Convention. They were submitted after a delay ranging from a few weeks to over several years.

Table 1. Reports received during the period under review

(25 August 1990 to 23 August 1991)

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Israel	Fifth report	2 February 1988	24 May 1991
Israel	Sixth report	2 February 1990	24 May 1991
Australia	Seventh report	30 October 1988	10 June 1991
Mexico	Seventh report	22 March 1988	22 May 1991
Australia	Eighth report	30 October 1990	10 June 1991
Greece	Eighth report	19 July 1985	7 August 1991
Mexico	Eighth report	22 March 1990	22 May 1991
Uruguay	Eighth report	5 January 1984	19 December 1990
Bulgaria	Ninth report	5 January 1986	4 March 1991
Greece	Ninth report	19 July 1987	7 August 1991
Syrian Arab Republic	Ninth report	20 May 1986	29 May 1991
Uruguay	Ninth report	5 January 1986	19 December 1990
Bulgaria	Tenth report	5 January 1988	4 March 1991
Costa Rica	Tenth report	5 January 1988	13 July 1991
Ghana	Tenth report	5 January 1988	12 June 1991
Greece	Tenth report	19 July 1989	7 August 1991
Sweden	Tenth report	5 January 1991	21 December 1990
Syrian Arab Republic	Tenth report	20 May 1988	29 May 1991
Uruguay	Tenth report	5 January 1988	19 December 1990
Bulgaria	Eleventh report	5 January 1990	4 March 1991
Costa Rica	Eleventh report	5 January 1990	13 July 1991
Ecuador	Eleventh report	5 January 1991	19 August 1991
Ghana	Eleventh report	5 January 1990	12 June 1991
Greece	Eleventh report	19 July 1991	7 August 1991
Syrian Arab Republic	Eleventh report	20 May 1990	29 May 1991
Ukrainian Soviet Socialist Republic	Eleventh report	5 April 1990	7 May 1991
United Kingdom	Eleventh report	5 April 1990	25 October 1990
Uruguay	Eleventh report	5 January 1990	19 December 1990

2. Reports not yet received by the Committee

23. By the closing date of the fortieth session of the Committee, 69 reports expected from 87 States parties before that date had not yet been received. They comprised 8 initial reports, 15 second periodic reports, 18 third periodic reports, 22 fourth periodic reports, 26 fifth periodic reports, 24 sixth periodic reports, 28 seventh periodic reports, 28 eighth periodic reports, 32 ninth periodic reports, 38 tenth periodic reports and 30 eleventh periodic reports. In addition, one supplementary report requested by the Committee was not received. Table 2 below provides the relevant information on these reports.

Table 2. Reports which were due before the closing date of the fortieth session (23 August 1991) but have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	5 January 1976	22
	Fifth report	5 January 1978	18
	Sixth report	5 January 1980	16
	Seventh report	5 January 1982	12
	Eighth report	5 January 1984	8
	Ninth report	5 January 1986	4
	Tenth report	5 January 1988	1
	Eleventh report	5 January 1990	1
	Supplementary	31 March 1975	-
Swaziland	Fourth report	6 May 1976	23
	Fifth report	6 May 1978	19
	Sixth report	6 May 1980	17
	Seventh report	6 May 1982	11
	Eighth report	6 May 1984	7
	Ninth report	6 May 1986	2
	Tenth report	6 May 1988	1
	Eleventh report	6 May 1990	1
Liberia	Initial report	5 December 1977	19
	Second report	5 December 1979	15
	Third report	5 December 1981	11
	Fourth report	5 December 1983	8
	Fifth report	5 December 1985	4
	Sixth report	5 December 1987	1
	Seventh report	5 December 1989	1
Guyana	Initial report	17 March 1978	19
	Second report	17 March 1980	15
	Third report	17 March 1982	11
	Fourth report	17 March 1984	8
	Fifth report	17 March 1986	4
	Sixth report	17 March 1988	1
	Seventh report	17 March 1990	1
Guinea	Second report	13 April 1980	15
	Third report	13 April 1982	11
	Fourth report	13 April 1984	7
	Fifth report	13 April 1986	2
	Sixth report	13 April 1988	1
	Seventh report	13 April 1990	1

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Zaire	Third report	21 May 1981	13
	Fourth report	21 May 1983	9
	Fifth report	21 May 1985	5
	Sixth report	21 May 1987	2
	Seventh report	21 May 1989	1
	Eighth report	21 May 1991	-
Gambia	Second report	28 January 1982	12
	Third report	28 January 1984	8
	Fourth report	28 January 1986	4
	Fifth report	28 January 1988	1
	Sixth report	28 January 1990	1
Côte d'Ivoire	Fifth report	4 February 1982	12
	Sixth report	4 February 1984	8
	Seventh report	4 February 1986	4
	Eighth report	4 February 1988	1
	Ninth report	4 February 1990	1
Lebanon	Sixth report	12 December 1982	10
	Seventh report	12 December 1984	6
	Eighth report	12 December 1986	3
	Ninth report	12 December 1988	1
	Tenth report	12 December 1990	-
Gabon	Second report	30 March 1983	9
	Third report	30 March 1985	5
	Fourth report	30 March 1987	2
	Fifth report	30 March 1989	1
	Sixth report	30 March 1991	-
Togo	Sixth report	1 October 1983	8
	Seventh report	1 October 1985	4
	Eighth report	1 October 1987	1
	Ninth report	1 October 1989	1
Uganda	Second report	21 December 1983	8
	Third report	21 December 1985	4
	Fourth report	21 December 1987	1
	Fifth report	21 December 1989	1
Fiji	Sixth report	11 January 1984	7
	Seventh report	11 January 1986	3
	Eighth report	11 January 1988	1
	Ninth report	11 January 1990	1

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Bahamas	Fifth report	5 August 1984	7
	Sixth report	5 August 1986	3
	Seventh report	5 August 1988	1
	Eighth report	5 August 1990	1
Belgium	Fifth report	6 September 1984	6
	Sixth report	6 September 1986	3
	Seventh report	6 September 1988	1
	Eighth report	6 September 1990	-
Somalia	Fifth report	27 September 1984	7
	Sixth report	27 September 1986	4
	Seventh report	27 September 1988	2
	Eighth report	27 September 1990	1
Cape Verde	Third report	2 November 1984	7
	Fourth report	2 November 1986	4
	Fifth report	2 November 1988	2
	Sixth report	2 November 1990	1
Lesotho	Seventh report	4 December 1984	7
	Eighth report	4 December 1986	4
	Ninth report	4 December 1988	2
	Tenth report	4 December 1990	1
Saint Vincent and the Grenadines	Second report	9 December 1984	7
	Third report	9 December 1986	4
	Fourth report	9 December 1988	2
	Fifth report	9 December 1990	1
El Salvador	Third report	30 December 1984	7
	Fourth report	30 December 1986	4
	Fifth report	30 December 1988	2
	Sixth report	30 December 1990	1
Papua New Guinea	Second report	26 February 1985	7
	Third report	26 February 1987	4
	Fourth report	26 February 1989	2
	Fifth report	26 February 1991	1
Zambia	Seventh report	5 March 1985	7
	Eighth report	5 March 1987	4
	Ninth report	5 March 1989	2
	Tenth report	5 March 1991	1

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Suriname	Initial report	15 March 1985	7
	Second report	15 March 1987	4
	Third report	15 March 1989	2
	Fourth report	15 March 1991	1
Solomon Islands	Second report	17 March 1985	7
	Third report	17 March 1987	4
	Fourth report	17 March 1989	2
	Fifth report	17 March 1991	1
Botswana	Sixth report	22 March 1985	7
	Seventh report	22 March 1987	4
	Eighth report	22 March 1989	2
	Ninth report	22 March 1991	1
Lao People's Democratic Republic	Sixth report	24 March 1985	6
	Seventh report	24 March 1987	3
	Eighth report	24 March 1989	2
	Ninth report	24 March 1991	-
Viet Nam	Second report	9 July 1985	6
	Third report	9 July 1987	3
	Fourth report	9 July 1989	2
	Fifth report	9 July 1991	-
Burkina Faso	Sixth report	18 August 1985	6
	Seventh report	18 August 1987	2
	Eighth report	18 August 1989	2
	Ninth report	18 August 1991	-
Bolivia	Eighth report	21 October 1985	5
	Ninth report	21 October 1987	2
	Tenth report	21 October 1989	2
Iran (Islamic Republic of)	Ninth report	5 January 1986	5
	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Tunisia	Ninth report	5 January 1986	5
	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Guatemala	Second report	17 February 1986	4
	Third report	17 February 1988	2
	Fourth report	17 February 1990	2

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Central African Republic	Eighth report	14 April 1986	4
	Ninth report	14 April 1988	2
	Tenth report	14 April 1990	2
Sudan	Fifth report	20 April 1986	4
	Sixth report	20 April 1988	2
	Seventh report	20 April 1990	2
Mozambique	Second report	18 May 1986	4
	Third report	18 May 1988	2
	Fourth report	18 May 1990	2
Jamaica	Eighth report	5 July 1986	4
	Ninth report	5 July 1988	2
	Tenth report	5 July 1990	2
Afghanistan	Second report	5 August 1986	4
	Third report	5 August 1988	2
	Fourth report	5 August 1990	2
Chad	Fifth report	16 September 1986	3
	Sixth report	16 September 1988	2
	Seventh report	16 September 1990	1
Peru	Eighth report	30 October 1986	4
	Ninth report	30 October 1988	2
	Tenth report	30 October 1990	1
Trinidad and Tobago	Seventh report	4 November 1986	3
	Eighth report	4 November 1988	2
	Ninth report	4 November 1990	1
Cambodia	Second report	28 December 1986	4
	Third report	28 December 1988	2
	Fourth report	28 December 1990	1
Nicaragua	Fifth report	17 March 1987	3
	Sixth report	17 March 1989	2
	Seventh report	17 March 1991	1
Sri Lanka	Third report	20 March 1987	4
	Fourth report	20 March 1989	2
	Fifth report	20 March 1991	1
Mauritius	Eighth report	29 June 1987	3
	Ninth report	29 June 1989	2
	Tenth report	29 June 1991	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
United Arab Emirates	Seventh report	21 July 1987	2
	Eighth report	21 July 1989	2
	Ninth report	21 July 1991	-
Mali	Seventh report	15 August 1987	2
	Eighth report	15 August 1989	2
	Ninth report	15 August 1991	-
Romania	Ninth report	14 October 1987	2
	Tenth report	14 October 1989	2
United Republic of Tanzania	Eighth report	26 November 1987	2
	Ninth report	26 November 1989	2
Barbados	Eighth report	10 December 1987	2
	Ninth report	10 December 1989	2
Brazil	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Iceland	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
India	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Kuwait	Tenth report	5 January 1988	1
	Eleventh report	5 January 1990	1
Nigeria	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Pakistan	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Panama	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Poland	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Spain	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2
Venezuela	Tenth report	5 January 1988	2
	Eleventh report	5 January 1990	2

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Morocco	Ninth report	17 January 1988	2
	Tenth report	17 January 1990	2
Nepal	Ninth report	1 March 1988	2
	Tenth report	1 March 1990	2
Madagascar	Tenth report	8 March 1988	2
	Eleventh report	8 March 1990	2
Bangladesh	Fifth report	11 July 1988	2
	Sixth report	11 July 1990	2
France	Ninth report	28 August 1988	1
	Tenth report	28 August 1990	1
Chile	Ninth report	20 November 1988	1
	Tenth report	20 November 1990	1
Algeria	Ninth report	15 March 1989	1
	Tenth report	15 March 1991	1
Tonga	Ninth report	17 March 1989	1
	Tenth report	17 March 1991	1
Seychelles	Sixth report	6 April 1989	-
	Seventh report	6 April 1991	-
Senegal	Ninth report	18 May 1989	-
	Tenth report	18 May 1991	-
Maldives	Third report	24 May 1989	-
	Fourth report	24 May 1991	-
Luxembourg	Sixth report	1 June 1989	-
	Seventh report	1 June 1991	-
Austria	Ninth report	8 June 1989	-
	Tenth report	8 June 1991	-
Ethiopia	Seventh report	25 July 1989	-
	Eighth report	25 July 1991	-
Congo	Initial report	10 August 1989	-
	Second report	10 August 1991	-
Norway	Tenth report	6 September 1989	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Antigua and Barbuda	Initial report	25 October 1989	-
Yemen a/			-
Namibia	Fourth report	11 December 1989	-
Argentina	Eleventh report	5 January 1990	-
Cyprus	Eleventh report	5 January 1990	-
Czechoslovakia	Eleventh report	5 January 1990	-
Egypt	Eleventh report	5 January 1990	-
Hungary	Eleventh report	5 January 1990	-
Libyan Arab Jamahiriya	Eleventh report	5 January 1990	-
Niger	Eleventh report	5 January 1990	-
Philippines	Eleventh report	5 January 1990	-
Yugoslavia	Eleventh report	5 January 1990	-
Mauritania	Initial report	12 January 1990	-
Byelorussian Soviet Socialist Republic	Eleventh report	7 May 1990	-
Rwanda	Eighth report	16 May 1990	-
Holy See	Eleventh report	1 June 1990	-
Germany b/	Eleventh report	14 June 1990	-
Dominican Republic	Fourth report	24 June 1990	-
Malta	Tenth report	26 June 1990	-
Cameroon	Tenth report	24 July 1990	-
Mongolia	Eleventh report	4 September 1990	-
Colombia	Fifth report	2 October 1990	-
Burundi	Seventh report	26 November 1990	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Denmark	Tenth report	8 January 1991	-
Netherlands	Tenth report	9 January 1991	-
China	Fifth report	28 January 1991	-
Italy	Eighth report	4 February 1991	-
Saint Lucia	Initial report	14 February 1991	-
Iraq	Eleventh report	15 February 1991	-
Cuba	Tenth report	16 March 1991	-
Bahrain	Initial report	26 April 1991	-
Jordan	Ninth report	30 June 1991	-
Finland	Eleventh report	16 August 1991	-
Qatar	Eighth report	22 August 1991	-

a/ On 22 May 1990, the People's Democratic Republic of Yemen and the Yemen Arab Republic merged into a single sovereign State called the Republic of Yemen, with Sana'a as its capital. The former People's Democratic Republic of Yemen acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 18 October 1972, and its ninth periodic report was due on 19 November 1989, but has not yet been received. The former Yemen Arab Republic, on the other hand, acceded to the Convention on 6 April 1989. Its initial report was due on 6 May 1990, but it has not yet been received.

b/ Through the accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation "Germany". The Federal Republic of Germany ratified the Convention on 16 May 1969 and its eleventh periodic report was due on 14 June 1990, but it has not yet been received.

3. Action taken by the Committee to ensure submission of reports by States parties

24. At its thirty-ninth and fortieth sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

25. At its thirty-ninth session, the Committee considered this agenda item at its 890th, 891st, 899th, 900th, 908th, 909th, 912th and 913th meetings (see CERD/C/SR.890, 891, 899, 900, 908, 909, 912 and 913) held on 5, 11, 12, 18 to 20, and 22 March 1991.

26. At its 909th meeting, held on 19 March 1991, the Committee considered and adopted a draft decision in which it regretted that a number of States were seriously late in the submission of their periodic reports despite many appeals and reminders; noted that such delays prevented the Committee from considering compliance with the Convention in such States, noted also that appeals to States parties had been of little effect and called upon the Secretary-General to bring to the attention of the States parties at their meeting the unfortunate consequences of these delays and to encourage the States parties to consider ways by which all States may be brought to fulfil their obligations under article 9, paragraph 1, of the Convention. (For the text of the decision see chapter VII.)

27. At its 903rd meeting, held on 14 March 1991, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that at its fortieth session it would proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue. The Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. Accordingly, at its 909th meeting, the Committee approved a letter to be addressed by the Chairman of the Committee to the Ministers for Foreign Affairs of 13 States parties (Bahamas, Belgium, Côte d'Ivoire, Fiji, Gabon, Gambia, Guinea, Lebanon, Sierra Leone, Swaziland, Togo, Uganda and Zaire), informing them of the decision taken by the Committee at its 903rd meeting and inviting the Governments concerned to designate a representative to participate in the consideration of their respective reports. (For the text of the letter see annex VI.)

28. The Committee further decided at its 913th meeting, held on 26 March 1991, to request the Secretary-General, in accordance with rule 66, paragraph 1, of the rules of procedure of the Committee, to continue sending appropriate reminders to States parties from which two or more reports were due but had not been received before the closing date of its thirty-ninth session, asking them to submit their reports by 31 December 1991. The Committee agreed that the reminders to be sent by the Secretary-General should indicate that all overdue reports could be submitted in one consolidated document. (States parties whose reports are overdue are listed in table 2 above.)

29. In that connection, the Committee wished to recall once again that rule 66 of its rules of procedure provides that:

> "1. At each session, the Secretary-General shall notify the Committee of all cases of non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.
>
> "2. If, even after the reminder referred to in paragraph 1 of this rule, the State party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly."

30. The Committee also wished to repeat once again a statement that it made at its first session and that was communicated to all States parties and to the General Assembly:

> "The Committee attaches great importance to these reports. It is unanimously of the view that, being a principal source of information, these reports provide the Committee with an essential element for discharging one of its most important responsibilities, namely, reporting to the General Assembly of the United Nations under article 9, paragraph 2 of the Convention." 3/

31. With respect to the issue of the improvement of the style and content of the Committee's report to the General Assembly, the Committee agreed at its 891st meeting that the section of the report concerning the consideration of a State party's report should contain:

(a) An account of the oral presentation by the representative of the State party;

(b) The questions and comments of the country rapporteur concerned and those asked by other members of the Committee presented analytically;

(c) Replies by the State party's representative; and

(d) Concluding observations on the report and the comments made by the State party concerning the situation regarding racial discrimination in the country concerned.

32. The Committee also discussed the question of sources of information to be used while considering State party reports; technical assistance to be provided to the States parties with overdue reports; and the model report prepared by the Rapporteur of the Committee with a view to assisting States parties with reporting difficulties.

B. Consideration of reports

33. At its thirty-ninth and fortieth sessions, the Committee considered 57 reports submitted by 30 States parties under article 9 of the Convention. The ninth and tenth periodic reports of Iraq, initially scheduled for consideration at the thirty-ninth session, were postponed to the fortieth

session at the request of the Government concerned. In addition, the Committee considered the seventh and eighth periodic reports of Australia.

34. The Committee devoted 30 of the 49 meetings it held in 1991 to the discharge of its obligations under article 9 of the Convention.

35. In accordance with rule 64 of its rules of procedure, the Committee continued the practice, started at its sixth session, of requesting the Secretary-General to inform States parties concerned of the dates on which their respective reports would be considered by the Committee and inviting them to send representatives to participate in the examination of their respective reports.

36. At its thirty-ninth and fortieth sessions, the Committee discussed at several different meetings its practices relating to the use of information from sources other than State party reports. At the request of the Committee, the Secretariat prepared a paper on the subject that was discussed at the Committee's 924th meeting, held on 12 August 1991. During that discussion, some members expressed the view that comprehensive information was not always forthcoming from States parties and that material from non-governmental organizations in such circumstances was often of great value. The practice of other human rights treaty bodies in this regard reflected that reality. Other members noted, however, that certain organizations, as well as the press, could not always be relied upon to present an accurate view, and that information should therefore be used judiciously. The Committee agreed that, in regard to the use of information from different sources, it could continue to make its suggestions and general recommendations on the basis of the examination of reports and information from States parties. At the same time, in examining the reports of States parties, members of the Committee, as independent experts, must have access to all other available sources of information, both governmental and non-governmental. The Committee's decision on this matter is contained in chapter VII of the present report.

37. At its thirty-ninth and fortieth sessions, the Committee continued to follow its practice of using country rapporteurs in the course of the examination of reports submitted by States parties (see annexes III and IX). This procedure had been decided upon at the thirty-sixth session, with a view to improving and streamlining the Committee's method of examining reports. The Committee considered that the system of country rapporteurs had reduced the time needed for the consideration of reports and had enhanced the dialogue with representatives of States parties. The Committee noted with satisfaction that it had developed a fruitful dialogue with representatives of reporting States present at its meetings and urged that all States parties should endeavour to send representatives when their reports were being examined.

38. As mentioned in paragraph 27 above, at its thirty-ninth session, the Committee identified thirteen States which were seriously in arrears in submitting periodic reports. A letter was sent to notify them that the Committee would review the implementation of the Convention in their countries on the basis of the last report submitted. Four of these States requested a postponement. The Committee agreed to a postponement only in the case of a State which undertook to submit its outstanding reports before the end of 1991. Of the remainder, one State sent a representative to take part in the

consideration; the other eleven did not. Of the eleven, five have diplomatic missions in Geneva.

39. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports of States parties, contain summaries based on the records of the meetings at which the reports were considered. Further information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

Barbados

40. The Committee considered the seventh periodic report of Barbados (CERD/C/131/Add.13) at its 890th meeting, held on 5 March 1991 (see CERD/C/SR.890).

41. The Committee, while commending the regularity with which Barbados submitted its periodic reports, regretted the absence of a Government representative to present the report during its consideration by the Committee. It was hoped that the Committee's comments and questions would be taken into account in the next report.

42. Referring to the population breakdown contained in the annex to the report, members of the Committee wished to know whether the "mixed" population category had declined or increased since the presentation of the last periodic report and asked for clarification of the statement that the terms used in the classification of census data did not necessarily provide evidence of racial discrimination when examined in a Caribbean context. Information was also requested as to the steps being taken to preserve the culture and way of life of Amerindians and concerning the employment status, educational level, housing situation and access to public health services of the population group classified as "mixed". In addition, it was asked what was the status within the society of Barbadians of African descent; in which industries they were mostly employed; and what percentage of white-collar workers they represented. Noting that the Barbadian economy was vulnerable to unfavourable external economic developments, members also wished to know whether any special measures had been taken to protect small minority groups and blue-collar workers and whether there were any poverty alleviation programmes.

43. With regard to article 2, further substantive information was sought on how statements of principle set forth in the Constitution were being translated into practical legislative measures. Was there any provision enabling small minority groups to use their own language in court, for example?

44. With regard to article 4, it was noted that the mandatory requirements set out in that article were not met either by Constitutional provisions or the Public Order Act. Members of the Committee also wished to know whether any cases of violations of fundamental rights and freedoms had been brought before the High Court since the submission of the sixth report and what type of High Court decisions were appealable to the Privy Council.

45. In connection with article 6, members of the Committee wished to know what measures had been taken to enable needy and less educated citizens to seek redress in the courts and whether such groups were sufficiently aware of

their rights; whether consideration was being given to the establishment of a race relations committee or commission; and whether the Government had considered making the declaration provided for in article 14 of the Convention.

46. With reference to article 7 of the Convention, members expressed the hope that the revised guidelines relating to that article, as contained in document CERD/C/70/Rev.1, would be followed in the future so that the Committee could obtain a more comprehensive picture of the article's implementation.

Concluding observations

47. Members of the Committee noted that dialogue and mutual understanding would have been enhanced had a representative of the Government been present on the occasion of the report's consideration. The Committee agreed that a letter should be sent to the Government of Barbados pointing out that its report had been considered in the absence of a representative and expressing the Committee's hope that a representative would be present on the next occasion.

Argentina

48. The tenth periodic report of Argentina (CERD/C/172/Add.18) was considered by the Committee at its 892nd and 894th meetings, held on 6 and 7 March 1991 (see CERD/C/SR.892 and 894).

49. The report was introduced by the representative of the State party, who declared that Argentina had a long-standing republican tradition, under which equality of opportunity was regarded as the cornerstone of every aspect of public life. The Constitution guaranteed equal treatment for all citizens regardless of race or origin and left no room for discrimination. Argentina took pride in its indigenous roots and regarded indigenous culture as an essential element of its nationhood. The next national census, which was to be held on 14 May 1991, would make it possible to make an accurate estimate of the number of indigenous inhabitants, leaving no room for doubts or misunderstandings. Like the majority of Latin American countries, Argentina was now undergoing a severe economic crisis, which made it difficult to meet the just demands of all its citizens and to give full effect to the principle of equality of opportunity. Argentina had consistently rejected the segregationist regime in South Africa, as was evidenced by its refusal to trade with that country until it put an end once and for all to the odious system of apartheid, granted every South African citizen the same civil and political rights, and allowed enjoyment by all of economic, social and cultural rights. Argentina had also strongly denounced the various forms of discrimination practised against Palestinian workers in the Israeli-occupied territories and had joined in condemning violations of the human rights of minorities, notably the Kurds.

50. The Government's policy on the indigenous population was to give priority to promoting indigenous interests, within the limits imposed by the country's current situation. Through application of that policy it was intended to improve the situation of the indigenous communities, particularly the Guaranis, who lived in the province of Misiones, in the socio-economic, health and cultural fields. The Government of Argentina was determined, as part of its policy of social justice, to preserve the historic and cultural asset

represented by Argentina's indigenous communities and was pleased that 1993 had been proclaimed International Year for the World's Indigenous People.

51. Members of the Committee commended the Government of Argentina for the efforts it had made to strengthen the democratic process initiated in 1983, following the dark days of the military dictatorship, in adopting legislation to guarantee human rights and introducing a programme to promote cultural freedom and national identity. They also commended the Government for having fulfilled its obligations in regard to periodicity and for having submitted an excellent report, which strictly followed the Committee's guidelines for the preparation of reports, took account of the questions raised by members during the Committee's consideration of Argentina's previous report and was amply documented.

52. With reference to the measures taken by the city of Buenos Aires and by the province of Cordoba to safeguard human rights, members wished to know what was the situation in other provinces, which did not have the benefit of such measures. Having noted the information on the new Act No. 2627.89 relating to the protection of the Guarani community in the province of Misiones, they asked for information on the situation in other provinces; similarly, more recent information was sought on Act No. 23.302, which had been amended following consultations with the indigenous communities. More precise and up-to-date information was also requested on the current economic, social and political situation in the country and on problems encountered; on rates of migration of the rural population to the towns and on any resulting tension in the shanty towns surrounding large cities; on how the setting-up of a new Ministry of Justice would affect government machinery responsible for implementing human rights policy; and on reports by certain human rights non-governmental organizations alleging discrimination in the courts against certain members of left-wing organizations who had been implicated in the attack on La Tablada barracks in Buenos Aires in 1989. With reference to the establishment of an Ombudsman's Office by the Buenos Aires City Council, members wished to know whether the Argentine Government was considering establishing similar offices in other areas of the country; whether any cases of racial discrimination had been brought before the Ombudsman's Office since its creation in 1985; and whether any cases had been referred to the Prosecutor-General for action.

53. In connection with the implementation of article 2 of the Convention, members of the Committee expressed a wish to have details concerning the planned revision of Act No. 23.302, particularly with respect to the replacement of the National Indigenous Institute by an authority to be designated by the Executive. They asked in that regard what arrangements were being made to prevent the risk of government control and what role the indigenous population itself would play in the new authority. Since the definition of an indigenous community was to be based on self-recognition, it was important to learn whether a community could reject an individual's application for membership and how the legal personality of a community could be terminated. With reference to the proposal to make provision for bilingual intercultural curricula in education, members asked what guarantees were provided to ensure that the indigenous population would have access to the teaching of its own culture, pending the implementation of the proposed new legislation. Members also wished to know whether the survival of the indigenous communities was in danger, whether action was being taken to

improve their chances of survival and whether the indigenous population was tending to move from the countryside into shanty towns.

54. Regarding article 3 of the Convention, members of the Committee welcomed Argentina's brave decision of 22 May 1986 to break off diplomatic relations with South Africa, despite the large loss of trade involved, and asked whether that policy was still being maintained. They also wished to know whether there were still political contacts or trade or investment relations between Argentina and South Africa.

55. Concerning article 4 of the Convention, members of the Committee noted that racial hatred was considered to be an aggravating factor in various offences under Argentina's Penal Code and inquired whether incitement to racial hatred and racist remarks were in themselves punishable offences. They also pointed out that the report gave no examples and no statistics of sentences imposed for offences connected with racism. Members asked whether any groups or organizations referred to in article 4 (b) existed in Argentina and, if so, whether criminal proceedings had been taken against their members. In that connection, they observed that the scope of the Act of 1988 relating to the punishment of discriminatory acts was not entirely clear, and they asked for further clarification. Noting that Argentina had a history of anti-semitism, which occasionally produced anti-semitic incidents, members pointed out that no reference to this aspect had been made in the report. Noting also that the systematic exclusion of Jews from important institutions such as the armed forces was also discriminatory, members asked if any action had been taken on such grounds against the persons responsible for recruitment.

56. With reference to article 5 of the Convention, members of the Committee wished to receive information on the degree of indigenous representation in Parliament and particularly in legislative bodies of provinces with large indigenous concentrations; on the use of indigenous languages in the courts; and on the general educational level of the indigenous population. They also wished to know whether it was possible to expropriate land for transfer to indigenous communities and whether the authorities could declare former unfair purchases of such land to be illegal or void; how the provision for bilingual intercultural curricula was working out in practice, particularly in the light of difficulties mentioned in the report; and whether it was true that immigrants from the Republic of Korea had to pay a large sum in order to qualify for residence in Argentina.

57. In connection with the implementation of article 6 of the Convention, members of the Committee wished to know the nature of offences in respect of which criminal proceedings were initiated automatically and what the system was for initiating proceedings in respect of other offences, as well as how frequently the special remedies referred to in paragraph 66 of the report had been applied for and what the respective roles were of the Under-Secretariat for Human Rights within the Ministry of Interior and the ordinary courts in that regard.

58. In his reply to the questions raised and comments made, the representative of the reporting State emphasized that Argentina had absorbed individuals from many different cultures, and for that reason racism in the European sense was unknown in Argentina. During the past 10 years, the country's output had fallen by 10 per cent, largely due to international

conditions such as growing protectionism in overseas markets and unfavourable terms of trade. While economic hardship could affect the living conditions of the population, it did not affect human rights because of the widespread awareness of fundamental rights and freedoms among the population. Subsequent to the period of military rule, there had been a consolidation of democracy in terms of freedom of speech, freedom of the press and observance of all the guarantees specified in the International Convention on the Elimination of All Forms of Racial Discrimination. The right to grant amnesty or pardon was the personal prerogative of the President of Argentina alone. The Argentine judicial system was independent, and the Executive was not permitted to intervene in the work of the courts. The Ombudsman system also existed in the provinces of Rio Negro and San Luis, and the possibility was being investigated of introducing it in Chubut in the south. The amendments proposed by the Government to Act No. 23.302 had not yet been approved and the Act therefore continued in force in its existing form. Decree No. 2347 of 17 December 1986 had established the Directorate-General for Women, within the Under-Secretariat for Human Rights in the International Sector of the Ministry of Foreign Affairs and Worship. There was no recent information on population movements from rural areas to urban centres.

59. In connection with article 2 of the Convention, the representative of the reporting State indicated that much provincial legislation, particularly in the north and in the Andean region, went back a long way in time, and frequently there was no compilation of such legislation. The aim of the amendments to the Indigenous Policy and Assistance to Indigenous Communities Act was to protect the indigenous communities from persons or entities fraudulently claiming property in the name of indigenous communities that no longer existed. The amendments to Act No. 23.302 would be adopted in consultation with the indigenous communities.

60. With regard to article 3 of the Convention, the representative said that diplomatic relations with South Africa had been broken off in 1986, leaving only relations at the consular level. Cultural ties were maintained and there was no bar on relations between individual citizens of the two countries. There were no laws against South African investment and property ownership in Argentina.

61. With reference to article 4 of the Convention, the representative of the State party pointed out that engaging in racist propaganda was a punishable offence. Any incitement to, or acts of, discrimination within the meaning of article 4 of the Convention constituted a breach of the law, including the Civil and Penal Codes and laws passed to give effect to the international conventions to which Argentina was a party. Anti-semitism was a thing of the past. Isolated incidents had occurred, but they were not symptomatic of a wider social phenomenon in Argentina, which had the largest Jewish population in Latin America and also had substantial Arab communities in the north of the country.

62. In connection with article 5 of the Convention, the representative stated that there was no official distinction between indigenous and non-indigenous members of Parliament, although many parliamentarians belonged ethnically to indigenous groups. While Spanish was the official language in the courts, the defence of non-Spanish-speaking citizens was guaranteed by the provision of interpretation services. The Government was trying to strengthen the position

of individual indigenous communities in respect of land ownership. The period during which land awarded could not be sold or transferred had been extended from 20 to 40 years. A continuing problem, however, was the lack of adequate registers of land ownership in areas more than 400 kilometres from Buenos Aires. Education was now non-denominational, free and compulsory for all, although there were clearly difficulties for pupils living in very remote areas. Overall, the educational standard was high and Argentina's literacy rate of 94 per cent was the highest in Latin America. The Government was aware of the need to preserve indigenous culture through appropriate programmes, such as the bilingual curricula, still at the drafting stage, and through the media. Special radio programmes existed in some provinces, such as La Pampa and Misiones. Bilingual education could be provided only in provinces with large indigenous communities. A current problem was to safeguard those languages, such as Guarani, Quechua and Mapuchi, which were disappearing. In that connection, the problem of a lack of teachers in indigenous languages was a perennial one.

63. With respect to article 6 of the Convention, the representative pointed out that although there had been abuses against the indigenous population in the past, no recent cases had been reported. Other questions would be answered in Argentina's next report.

Concluding observations

64. In concluding the consideration of Argentina's tenth periodic report, members of the Committee said that the report had made a positive contribution in so far as it had presented a fairly complete picture of the situation regarding the adoption of international instruments and had analysed new domestic legislation, particularly Act No. 23.302 on Indigenous Policy and Assistance to Indigenous Communities and the 1988 Act relating to punishment of discriminatory acts on the grounds of race, religion or nationality. The analysis of the new institutions set up to combat discrimination, such as the Ombudsman and the Under-Secretariat for Human Rights, had also been interesting. There had, however, been certain gaps in the report. For example, no information had been given regarding court decisions relating to racial discrimination, and no figures had been given to show the extent to which the indigenous population participated in Congress, the Administration or institutions dealing with indigenous affairs. The oral replies given by the representative of Argentina had been excellent.

Ukrainian Soviet Socialist Republic

65. The tenth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/172/Add.14) was considered by the Committee at its 893rd meeting, held on 3 April 1991 (see CERD/C/SR.893).

66. The report was introduced by the representative of the reporting State, who drew the attention of the Committee to the many political, economic and social changes that had taken place since the submission of the report in 1989. In this connection, he noted that the Declaration of the Sovereign Independence of the Ukraine recognized the precedence of international law over national law and provided for equal treatment of all citizens before the law, and that regulations governing the registration and activities of religious groups had been made more liberal. He added that the Ukrainian

Parliament now included a Human Rights Commission, whose task it was to ensure that any laws passed were consistent with international human rights standards. Amongst these laws would be the new Constitution, which was now in preparation.

67. In addition, the representative recalled that the Ukrainian SSR was a multinational State: out of a total of 52 million inhabitants, there were 11 million Russians, 150,000 Hungarians, and many other minorities. Parliament had passed a law in October 1989 to promote the Ukrainian language and the languages of the country's minorities. With regard to the issue of apartheid, the position of the Ukrainian SSR was that international sanctions against South Africa should not be lifted until that country had acquired a democratic system. He also drew attention to the preparations for the commemoration in autumn 1991 of the fiftieth anniversary of the massacre at Babi Yar, which would include an international conference on the struggle against nazism and racial discrimination, a film festival and a book exhibition. Lastly, the representative said that the Ukrainian SSR, in its efforts to make human rights better known, organized special training courses for judicial and police officials and would widely publicize the opinions expressed by the members of the Committee during the consideration of the report.

68. Members of the Committee noted that the Ukrainian SSR had complied with the periodicity requirement for submission of reports and thanked the representative for his sincere and comprehensive oral introduction, which painted a picture significantly different from that in the report itself. It was regretted that the report contained so little demographic data. Members of the Committee questioned the statement in the report that "the very nature of the present socio-economic and political system in the Ukraine completely precludes the possibility of the emergence or existence of racism or racial discrimination", especially in the light of current social and economic changes. It was also asked whether the results of the referendum to be held on 17 March 1991 might affect relations between ethnic and religious groups. Members of the Committee wished to receive more information on tension between ethnic groups, the claims of the different nationalities and the difficulties experienced by the Uniate Church and the Pentecostal Church with regard to religious observance. They asked for information on the use of Ukrainian, Russian and other languages in official communications and before the courts. They also asked for details of any legal provisions, either existing or proposed, to preserve the existence, culture and traditions of minorities. Furthermore, it was inquired what the current situation of the Jews was with regard to religion, language, education and the right to leave the country, and to what extent the Crimean Tartars had been integrated or resettled in their region of origin. Members of the Committee also expressed the hope that the Ukrainian SSR would make the declaration provided for under article 14 of the Convention.

69. With reference to article 2 of the Convention, members of the Committee asked whether the need to adopt special measures to give effect to that article had arisen and, if so, on what basis they had been drawn up and which authorities would be responsible for implementing them.

70. In view of article 4 of the Convention, members of the Committee wished to know whether the legislation on criminal liability mentioned in the report had been invoked before the courts and with what results.

71. With regard to article 5 of the Convention, members of the Committee wished to know whether there were any differences or inequalities between citizens on the basis of their nationality and, if so, what steps had been taken to remedy that situation. They also asked for information concerning obstacles remaining to entry into or departure from the country, whether any distinction was made between Soviet citizens and foreigners in that respect and whether that distinction was maintained despite the current changes. More generally, they wished to know what procedures governed departure from and return to the country. Members of the Committee asked for a clarification of the statement in the report to the effect that no religious movement attached prime importance to the question of nationality. They also wished to know what effect the Orthodox Church's being pronounced to be part of the Ukraine's cultural heritage had had on the relations between that church and other religions, particularly in view of certain recent tensions and how large the membership was of religious societies in the Ukrainian SSR.

72. Turning to article 6 of the Convention, members of the Committee wished to know the extent to which the decree on complaints against unlawful actions of officials infringing citizens' rights had been applied and what the corresponding court rulings had been.

73. The first representative of the reporting State, replying to questions of a general nature, furnished additional demographic data from the 1989 census. According to that census, many members of certain minorities regarded Ukrainian as their mother tongue. Ukrainian had now become the official language, but bilingualism and multilingualism were common. Ukrainians were all the more conscious of the status of minorities in that 7 million of them lived in other Republics of the Union. The referendum to be held on 17 March 1991 had given rise to extensive debate in all sectors of Ukrainian society, notably regarding the possible advantages or disadvantages of remaining within the Union or leaving it. With regard to instruction in minority languages, the representative noted that it would not be practical to contemplate opening such schools except in regions where minorities were strongly represented. A number of bodies and associations had been set up to defend the interests of minorities.

74. The second representative of the reporting State explained that although the Ukrainian SSR had announced that its legislation took precedence over that of the Union, that declaration had not been put into practice. Contrary to what had been stated in the report, the socio-economic and political system prevailing in the Ukraininan SSR had not eliminated but rather had perpetuated racial discrimination. The totalitarian regime had been attempting to russianize the Ukrainians, but that situation was gradually being remedied. With regard to religious issues, the representative said that there were indeed links between religious movements and nationality. The Ukrainian Orthodox Church was making efforts to create a purely national church. Interdenominational tension had increased, but measures had been taken to deal with it. The situation of the Jewish minority had improved, and it now enjoyed the use of a number of facilities, including two theatres, one periodical and synagogues. The return of the Crimean Tartars was proceeding

normally, although certain problems had arisen regarding settlement permits and standards of living.

75. With respect to article 2 of the Convention, the representative pointed out that extremist organizations were very much in the minority and had no support from the population. In accordance with article 4 of the Convention, the Ukrainian Penal Code considered any incitement to racial discrimination or any act of racial discrimination a serious offence.

76. Turning to article 5 of the Convention, the representative stated that the obligation to make no distinction between nationals and aliens was not currently respected in the Ukrainian SSR. It was to be hoped, with regard to the exercise of the right to leave any country and the right to nationality, that the problem of depriving Jews or members of another nationality of Soviet citizenship when leaving the country would be resolved if Ukrainian citizenship was created. Problems encountered concerning cultural and social rights were the result of the low level of economic development; they were not political.

77. The third representative of the reporting State summarized some of the historical changes that bore upon the position of minorities. The difficulties which the Ukrainian SSR was encountering were universal ones, but they were increased by the change-over to a market economy. Although many political parties now operated, none upheld racist ideas. The authorities were endeavouring to determine the causes of the current problems in order to devise legislative and preventive measures. The possibility of making the declaration provided for in article 14 of the Convention would be put before the parliamentary Human Rights Commission for consideration. Once the Ukrainian SSR had ratified the Optional Protocol to the International Covenant on Civil and Political Rights, it should have no difficulty in making such a declaration.

Concluding observations

78. Members of the Committee said that the consideration of the report showed that there was a better appreciation of the importance of ethnic problems in the Ukrainian SSR, although many questions had remained unanswered and numerous uncertainties remained. They attached great importance to the next (eleventh) periodic report, which should contain demographic information, information on the legal status of the Ukrainian SSR and steps taken to give practical effect to the Convention. It was hoped that the changes currently taking place would be favourable to the implementation of the Convention.

Burundi

79. The sixth periodic report of Burundi (CERD/C/168/Add.1) was considered by the Committee at its 894th meeting, held on 7 March 1991 (see CERD/C/SR.894).

80. The report was introduced by the representative of the State party, who informed the Committee of the most important changes that had taken place in Burundi since the advent of the Third Republic on 3 September 1987. Foremost among them was the adoption by the Special Congress of the UPRONA (Union for National Progress) Party, in December 1990, of the Charter of National Unity, which was subsequently approved in a national referendum, with 89 per cent of

the votes being cast in favour. The Charter of National Unity constituted a general platform for the full exercise of all human rights, including the elimination of racial discrimination. It rejected violence, upheld the right to life, proclaimed the equality of all citizens and the free exercise of public and individual freedoms, recognized the right of every citizen to education and training, guaranteed the right to own property and advocated the organization of society on a democratic basis. A new Constitution, which would certainly not depart from the guidelines contained in the Charter of National Unity, was to be drawn up and put to a referendum by the end of 1991. Other important developments included the consolidation of national unity through the implementation of the Charter, an immediate analysis of the refugee question and of the question of compensation for the victims of the ethnic clashes that had occurred in Burundi and the establishment of permanent democratic institutions.

81. The representative of the reporting State also informed the Committee of some new developments that had occurred since the preparation of the report, indicating, in particular, that the Government of National Unity had taken further steps to give concrete form to universally recognized values, including the implementation of policies in keeping with the ethics of unity in such sensitive fields as education and employment, where everything was now being done with the greatest transparency and without any discrimination, and ensuring that human rights were guaranteed for all Burundi citizens without any discrimination, the only constraints being due to Burundi's status as a least developed country. Notwithstanding the progress made, much remained to be done. The support of the international community, particularly of the United Nations Centre for Human Rights through its programme of advisory services, in providing information and training at all levels and for all socio-professional groups, in both urban and rural areas, including training in the administration of justice and for the police and army, would be most valuable in ensuring the success of the Government's initiatives.

82. Members of the Committee welcomed the changes that had taken place in Burundi since 3 September 1987 and congratulated President Buyoya for initiating measures for national reconciliation. They noted with special satisfaction that the most flagrant measures of discrimination against the Hutus in schools had been eliminated and that leaders of both ethnic groups were involved in promoting national unity and, for the first time, had agreed to discuss common problems. At the same time, members expressed the view that there was as yet no concrete evidence to suggest that the conditions that had caused the events of 1988 had changed significantly. With regard specifically to those events, members wished to know what judicial proceedings had been taken following the violent disturbances in the north of the country in August 1988; whether the initial arrests and detentions had been followed by measures of clemency and liberalization; and whether penalties had been imposed on military personnel guilty of violence at that time. They also noted that requests for details of action taken by Burundi on the Committee's recommendations had gone unheeded and that little factual information had been provided. Members also wished to receive demographic data on the Tutsi and Hutu and more information on the balance between the two ethnic groups in all areas of public life.

83. With reference to article 2 of the Convention, members of the Committee wished to know what effective measures had been taken by the Government of Burundi, pursuant to paragraph (c) of that article, to nullify discrimination and to ensure that there was no discriminatory application of texts such as those specified in paragraph 18 of the report, and whether any relevant supervisory procedure had been set up.

84. Regarding article 4 of the Convention, members of the Committee requested that the texts of national laws relevant to the implementation of provisions contained in paragraphs (a) and (b) of article 4 be provided to the Committee.

85. With respect to article 5 of the Convention, members of the Committee wished to know what assurance the Hutus had of equal treatment before the courts and whether any effort had been made to strike a more appropriate balance between Tutsi and Hutu elements in that regard; whether access to legal remedies was readily available; what specific measures had been taken to encourage Hutus to re-enter the educational system at all levels; whether any reforms of the educational system could be expected in the near future; what measures were being taken to reduce tension between Hutu clerics and the Tutsi elite, both secular and religious; whether the churches were being allowed to play a role in reconstruction and national reconciliation; and whether there was freedom of religion in Burundi and how such freedom was exercised. Noting that the army in Burundi continued to be 98 per cent Tutsi, members wished to know whether that situation would remain unchanged in the foreseeable future and how the ethnic balance was to be improved. They also wished to know what the role of the army would be in the future, if and when national reconciliation had been effected and whether the army would be disarmed to an appreciable extent. Members also sought more information on action to rectify the ethnic imbalance in civil service posts and in the labour market generally. If the UPRONA Party was monopolized by the Tutsi, the planned strengthening of that party or of any other institution might increase the difficulties. It was asked whether a multi-party system might be considered.

86. With respect to article 6 of the Convention, members of the Committee were of the view that, in general, more information was needed on the implementation of the provisions contained in that article, especially concerning the effectiveness of court proceedings against racial discrimination and access to legal remedies.

87. The representative of the State party, replying to the questions raised and comments made by the members of the Committee, explained that the ethnocentric concept had been introduced into the society and politics of Burundi by the colonial Power which, playing on the differences between the Tutsis and the Hutus, had laid the foundation of an administration based on privilege. After independence, a power vacuum left by the assassination of the Prince had exacerbated discord among the elites, leading to the bloody events of 1965. A policy of discrimination in the army and in education had further accentuated ethnic strife, which the Government of the Second Republic had proved unable to curb. The Government of the Third Republic, which had taken office in September 1987, had had the great merit of recognizing the problem of inter-ethnic tension and launching a national debate on the issues involved at all levels of society and public life. Even an expert would find difficulty in providing information on the ethnic distribution of Hutus and Tutsis, since the distribution of population in Burundi was not based on

ethnic considerations. With regard to the events of 1988, the representative said that justice had taken its course following the events of 1988 and that the President of the Republic had subsequently amnestied all those charged with offences in connection with those events. He also informed the Committee that the recently established human rights leagues were multi-ethnic in composition, that their function was to enhance and protect human rights, and that they were independent of the public authorities.

88. With regard to questions raised concerning article 2 of the Convention, the representative of the State party said that non-discrimination was amply provided for in legislation and other statutory instruments and that what was important in the actual situation was the political will to ensure their application in practice. Monitoring procedures now existed at the level of the party and the administration through various commissions. Although the Government was making efforts to improve the situation, some isolated cases of discrimination still occurred. Such cases were duly penalized according to the legislation in force.

89. Concerning article 4 of the Convention, the representative explained that the relevant article of the Penal Code provided for sanctions against anyone who manifested racial or ethnic aversion or hatred or committed an act likely to stir up such aversion or hatred, but a text of that nature could not be expected to contain specific details of such sanctions. So far no one had been convicted under that article, although certain persons had been held for questioning but later released on grounds of insufficient evidence.

90. With reference to article 5 of the Convention, the representative of the State party said that everyone in Burundi was equal before the law. The judiciary was independent and ensured equal treatment of all citizens. The Catholic Church of Burundi had been the first to denounce the violations committed under the Second Republic and was endeavouring to promote reconciliation, notably through its participation in human rights associations. The predominance of Tutsis in the army should not be seen as an obstacle to national reconciliation, since it was a national army and its purpose was not to defend the Tutsis. After the proclamation of the Third Republic in 1987, the Military Committee for National Redemption had been replaced by the Party Congress, which had elected the Central Committee of the UPRONA Party in which the Hutus and Tutsis were equally represented and which comprised representatives of all socio-political sectors. Both the Hutus and the Tutsis were represented in the civil service. The Government's policy was progressively to ensure fair representation at all levels of the administration, beginning with the Government, where the Hutus already outnumbered the Tutsis. The ever-present aim was to promote national unity.

91. With regard to recruitment for both the public and private sectors, a tripartite recruitment commission had been established in July 1988 with responsibility for all matters relating to recruitment, posting of vacancies, contacts between employers and employees, and other labour issues. At the beginning of 1990, a special commission had been established with wide powers concerning recruitment for the civil service. In education, a fellowships and training commission had been established, and the national examination for admission to secondary school had undergone a thorough reform based on the principle of non-discrimination. A commission for the repatriation of refugees had also been set up and its role and financial resources had been

substantially strengthened. Since Burundi was a country with a single culture and a single language there were no distinctions between the two ethnic groups in regard to culture and language.

Concluding observations

92. Concluding the consideration of the report of Burundi, members expressed their appreciation of the responses given by the representative of Burundi to the questions raised. They expressed the hope that in the next report extracts from the country's legislation corresponding to specific provisions of articles 2 to 7 of the Convention would be provided, as well as information on the extent to which those articles had been implemented through judicial or administrative measures. They hoped that specific information could also be given on the representation of the Hutus in the army, the public service, the UPRONA party, the Parliament and the Government to measure progress in realizing national unity. The repatriation of refugees and the gradual elimination of institutionalized discrimination in education augured well for the future.

Cuba

93. The ninth periodic report of Cuba (CERD/C/184/Add.3) was considered by the Committee at its 894th and 895th meetings, held on 7 March 1991 (see CERD/C/SR.894-895).

94. The report was introduced by the representative of the reporting State, who drew attention to the adoption in 1987 of the new Penal Code, which reflected a change in attitude towards the treatment of offenders by decriminalizing acts which did not constitute serious offences. Cuba had also taken legal measures to eliminate the vestiges of racial discrimination inherited from the past, as well as measures aimed at bringing about changes in attitudes so that the population would be better able to recognize and to guard against manifestations of discrimination.

95. Members of the Committee expressed their appreciation of the cooperative attitude shown by the Government of Cuba. They noted that racial discrimination could not be characterized only as a vestige of the past, since no society was completely free of it. Members inquired whether certain types of racial discrimination still existed as a result of differences in the status of the various ethnic groups and whether the reform of the Penal Code had had any effect on the disproportionate number of Blacks in the prison population. They wished to receive demographic information reflecting the distribution of economic resources, as well as the representation of each of the main ethnic groups in the administration, in education and in law enforcement. Members also asked for further information concerning the relative importance of the various educational levels and the proportion of Blacks at each level.

96. With regard to article 1 of the Convention, members of the Committee sought information on any programmes that were being carried out to promote certain sectors of the population and how such programmes benefited the Black population in particular.

97. With reference to article 2 of the Convention, members of the Committee wished to know whether offences against racial equality were included in the new Penal Code; what the penalties were for such offences under article 295 of that Code; whether the reduction of the applicable prison term had been justified; and what penalties were applicable to an official who committed a discriminatory act.

98. In respect of article 3 of the Convention, members of the Committee asked what the penalties were for the crime of apartheid and why the consequences of decriminalization differed in the cases of racial discrimination and apartheid.

99. Turning to article 5 of the Convention, members of the Committee wished to know whether persons who openly professed a religion would be admitted as members of the Communist Party; whether there were any restrictions on freedom of movement and on leaving and entering the country; what the purpose was of the so-called "captive villages"; and whether the identity card and registration of residence regulations were still in force. It was also asked what was meant by article 32 of the Cuban Constitution, which stated that citizenship could be forfeited for acting "against the people of Cuba and its institutions" and what the applicable procedures and remedies were in such cases. Members also wished to receive additional information on any restrictions on the right to own property. With regard to freedom of thought, conscience and religion, they asked whether any cases of religious discrimination had arisen and, if so, what type of discrimination had been involved; what the precise scope was of articles 41 and 54 of the Cuban Constitution, which referred to faith or religious beliefs which "were in opposition to the Revolution"; and what restrictions were imposed on religious practice by the Office for Religious Affairs. In connection with freedom of opinion and expression, members of the Committee asked whether there had been any changes in the control of the Communist Party over the media. Concerning the right of assembly and association, members wished to know what the scope was of article 103 of the Penal Code, which governed expression of opinion by non-governmental organizations; what options were available for those who wished to exercise their right of association; and what the requirements were for such rights to be recognized under the Associations Act. Referring to the right to health, they asked what kind of assistance was given to AIDS victims. Lastly, it was asked what steps were taken to ensure that all population groups, especially Blacks, had access to all aspects of cultural life.

100. With regard to article 6 of the Convention, it was asked whether a victim of acts of racial discrimination had the right to compensation.

101. In the context of article 7 of the Convention, it was asked why the Cuban education system did not provide for courses in human rights and whether the history curriculum, both at school and university, included the study of different ethnic groups and cultures.

102. In his reply, the representative doubted whether all the questions asked were within the Committee's mandate. He said that manifestations of racial discrimination did occur in Cuba, but that such manifestations were regarded as disgraceful, rejected by the public's social conscience and punished under criminal legislation. He explained that the high number of Blacks in Cuba's prison population was due to the fact that Blacks were particularly numerous

among the poorest sectors of the population. Information on the economic status of the different economic groups would be given in the next report.

103. In connection with article 1 of the Convention, the representative stated that the multidisciplinary programmes referred to in the report were intended for those groups, not meaning "racial groups", which had not yet benefited from the social achievements of the Revolution.

104. The representative of the reporting State, in his reply to questions raised by the Committee in connection with article 2 of the Convention, said that in cases of offences against racial equality, proceedings were brought in accordance with the general rules contained in the Code of Criminal Procedure. Information on whether such proceedings had already been brought under the new Penal Code would be provided in the next report. The reduction of the maximum penalty for the offence of racial discrimination from three to two years of imprisonment had been the result of a general tendency to reduce maximum penalties and of a sharp rise in anti-racist social feeling which had led to racism having less of an impact on Cuban society.

105. With regard to the implementation of article 5 of the Convention, the representative explained that no one was prohibited from participating in the country's political life on account of his religious beliefs as far as the state apparatus was concerned. Relations with the Vatican had changed, so that tension with the clergy had become a thing of the past. Consideration was being given to the possibility that persons professing a religion might be eligible for membership in the Communist Party, though questions would remain about their ability to subscribe to the principles of Marxism-Leninism. In reply to questions concerning freedom of movement, the representative said that everyone could freely change his residence, either temporarily or permanently. The term "captive villages" referred to pockets of insurgent and counter-revolutionary activities in 1960 and 1961; there was now complete freedom to enter and leave the areas in question. Regarding the obligation to possess an identity card and to record any change of residence of more than six months in the register of addresses, the representative stated that all citizens were bound by it, regardless of the group to which they belonged. The representative said that the Government imposed no limitation on the right to leave Cuba, but that in order to exercise that right in practice, it was necessary for another country to grant an entry visa and residence permit to a Cuban who wished to leave the country. Regarding the concept of loss of citizenship, the representative explained that this was generally associated with the acquisition of another nationality. The applicable procedure was rare and was applied only against persons who engaged in activities prejudicial to the Cuban people and its institutions.

106. With regard to the right to own property, the representative stated that all conceivable types of property were recognized; the only prohibition related to the establishment of capitalistic enterprises. Turning to the question of freedom of expression, he said that this freedom was separate from freedom of opinion and that Cuban legislation in that regard was comparable to that of other countries in the world and applied to all citizens without distinction as to race. As to freedom of religion, the representative noted that Fidel Castro himself had acknowledged that problems of religious discrimination had existed in Cuba. However, tension with the clergy was now a thing of the past, so much so that consideration was being given to the

possibility that, one day, persons professing a religion might be admitted as members of the Cuban Communist Party. With reference to the freedoms of assembly and association, the representative stated that the relevant articles of the appropriate municipal by-law and of the Associations Act, in particular, were applicable to all citizens without distinctions as to race. With regard to the right to education, he stressed the fact that children of all races and all sectors of society had access to education on a footing of equality.

107. Replying to questions raised in connection with article 6 of the Convention, the representative explained that anyone who had grounds to complain that his right to equality had been violated for reasons of race was able to institute criminal proceedings and was also entitled to bring a civil suit for damages.

108. With reference to article 7 of the Convention, the representative noted that in December 1990 he had given a university-level course on human rights under United Nations auspices at the Higher Institute of International Relations, and the course had been open to everyone. He added that similar courses would be organized in future.

Concluding observations

109. Members of the Committee said that the Government of Cuba had maintained a constructive dialogue with the Committee and acknowledged that active steps were being taken to combat racial discrimination in Cuba. It was hoped that additional information would be supplied in the next periodic report.

Portugal

110. The third and fourth periodic reports of Portugal, submitted in one document (CERD/C/179/Add.2), were considered by the Committee at its 895th and 896th meetings, held on 7 and 8 March 1991 (see CERD/C/SR.895-896).

111. The reports were introduced by the representative of the reporting State, who said that Portugal's Constitution provided for effective respect for and recognition of human rights and fundamental freedoms. Constitutional provisions could be applied directly by the courts and were binding on any public or private body. Furthermore, all persons subject to Portuguese jurisdiction could assert their rights before international bodies, such as the Human Rights Committee. Portugal was also planning to make a declaration under article 14 of the Convention. New legislation had been adopted with regard to access to the courts and with regard to the political rights of foreigners, and a campaign on the theme "The citizen and justice" had been launched in 1990 to introduce transparency in the administration of justice. In addition, several initiatives relating to the education and integration of ethnic minorities had been taken, and a provision for the promotion of programmes for cultural minorities had been included in the Broadcasting Act. The Prosecutor-General of the Republic had called for an exhaustive report on the "skinhead" movement and on any connections it might have with other national or foreign individuals or groups suspected of similar activities.

112. Members of the Committee welcomed the positive attitude of the Government of Portugal towards its reporting obligations and noted with satisfaction the improved arrangements for the protection of human rights in general, and for the implementation of the Convention in particular, resulting from the second constitutional reform adopted in August 1989. They wished to know what the legal status was of the population of the overseas territories and whether specific provisions to give effect to the Convention had been introduced in the territories; whether an individual could address the Constitutional Court directly; what the position was of the Provedor de Justica [Ombudsman] and what his relationship was to the Constitutional Court; whether the constitutional commitment of Portugal "to strengthen its European identity" would affect persons originating from outside Europe and cultural minorities in Portugal; and whether the small racist groups in Portugal represented merely isolated "pockets" of racism or whether they were symptomatic of the emergence of a more widespread phenomenon.

113. With regard to the Commission for the Promotion of Human Rights and the Elimination of Inequality in Education, members of the Committee wished to know whether the jurisdiction of that Commission was limited to education and, if so, whether there were any bodies with broader powers responsible, in particular, for protecting the right not to be discriminated against on racial grounds. In addition, members wished to receive more information on the composition of the population by national or ethnic origin, as well as on various social, economic and cultural indicators such as per capita income and unemployment and literacy rates and on the decision of the Constitutional Court declaring unconstitutional some of the provisions of the General Service Regulations of the National Republican Guard because they discriminated against Gypsies.

114. With regard to article 1 of the Convention, members of the Committee wished to know what special and concrete measures had been taken by the Government in the implementation of that article, particularly in respect of the Gypsy minority and what the constitutional basis was for restrictions on the right to legal protection of non-resident aliens. It was asked whether Portuguese law prohibited discrimination on grounds of colour, as distinct from race.

115. Referring to article 3 of the Convention, members of the Committee asked whether trade and investment ties between Portugal and South Africa had increased between 1986 and 1990.

116. In the context of article 4 of the Convention, members of the Committee wished to know whether the results of the inquiry into the "skinhead" movement had become available; whether "skinheads" were banned in Portugal; whether any penalties had been imposed on parliamentarians for participating in fascist-oriented organizations; what the results had been of the investigation into a series of newspaper articles containing statements inciting racial hatred; and whether the penalties for the propagation of ideas constituting incitement to racial discrimination were actually applied.

117. In connection with the implementation of article 5 of the Convention, members of the Committee wished to know what practical measures had been taken to prevent persons from being subjected to racial discrimination in the exercise of the rights set forth in that article; what problems were being

encountered and what measures had been taken with regard to the education of Gypsies; what the illiteracy and unemployment rates were for Angolans, Cape Verdeans and Mozambicans and whether they had housing or health difficulties; whether ill-treatment had been practised to obtain confessions from criminal suspects; and how frequently persons with an inadequate knowledge of Portuguese were assisted by an interpreter in court proceedings. They also wished to have additional information on the issuance of passports and residence permits, on the procedure applied and criteria employed in asylum cases and on the public information and guidance services in courts and judicial offices.

118. Turning to article 6 of the Convention, members of the Committee asked what specific problems had been encountered in the practical implementation of that article; what remedies were available; and how many complaints the Ombudsman had received and of what nature.

119. Referring to article 7 of the Convention, members of the Committee asked whether, in Portuguese education, the characteristics of cultural minorities were recognized; how the Government ensured objective treatment of news; whether there was any move towards privatization of the media; and what the outcome had been of the Prosecutor-General's investigation of possible incitement to racial hatred in a series of newspaper articles.

120. In his reply, the representative said that Portugal had a population of 10.5 million and that there were 4 million Portuguese migrant workers abroad. He listed the criteria for the issuance of residence permits and passports and for the granting of asylum. The Commission for the Promotion of Human Rights and the Elimination of Inequality in Education was an interministerial commission and had as its function the promotion of awareness of human rights. The Commission participated in the preparation of school curricula and training programmes for prison personnel, police officers and judges. The Commission on the Status of Women provided legal information, free of charge, on family, labour and social security law, and took part in the drafting of legislation concerning the status of women. No specific commission or authority had been set up to deal with racial discrimination issues. Apart from the courts, a significant role was also played by the Ombudsman, who was an independent entity to whom citizens might apply in connection with actions or omissions by the authorities, including any instances of discrimination. The major danger arising from the presence of "skinheads" was that they were manipulated by right-wing extremist organizations, notably the National Action Movement (MAN). The "European identity" concept embodied the common values which united the countries of Europe, among them pluralism, democracy and universal suffrage; it implied cooperation with other countries and peoples and, in education, its aim was to help students develop a national consciousness which would include awareness of the need for international cooperation and support for universal human values. The modalities for the transfer of sovereignty over Macao to China had already been agreed upon. After the transfer of sovereignty in 1999, the inhabitants of Macao would retain all the basic rights they had previously enjoyed and all would be considered equal before the law. The Government of Portugal was doing its utmost to ensure that their right to self-determination became a reality.

121. The representative said, in connection with article 3 of the Convention, that there was a community of over 600,000 Portuguese in South Africa but that trade links were negligible.

122. In his response to questions relating to article 4, the representative said that the "skinhead" movement could be dealt with by the existing legal framework, such as article 189 of the Criminal Code, which provided for a two to eight year prison term, and article 132, which provided that the crime of murder would be deemed aggravated if motivated by racial or religious hatred. The Lisbon Criminal Court was currently investigating the case relating to newspaper articles that encouraged racial hatred.

123. With regard to article 5 of the Convention, the representative drew attention to the establishment of the Legal Information Office, noting that three legal advice offices had already started operation and 15 others were to be established throughout the country. In the field of secondary education, special importance was attached to vocational training as a means of meeting the development needs of the regions and making use of local manpower resources. Access to higher education was provided for students from Portuguese-speaking African countries through a quota system. One of the measures taken with regard to the education of Gypsies had been the introduction of training courses for teachers of Gypsy children. Among the measures that had been taken to preserve the identity of cultural minorities were optional language courses in Mirandês and the preparation of a Mirandês dictionary.

124. Concerning article 6 of the Convention, the representative said that there had been no cases of racial discrimination before the courts except for one case, at the level of the Court of Appeal, concerning the exclusion of a non-Portuguese candidate from admission to a school-teaching examination.

125. In reply to questions relating to article 7 of the Convention, the representative said that legislation governing television expressly provided for the right of reply on political matters and that the broadcasting system was now in the process of privatization.

Concluding observations

126. In concluding the consideration of the report, members of the Committee congratulated the Government of Portugal on its report, the progress made in adopting measures to combat racial discrimination and the clarity and accuracy of the answers supplied orally by the representative. However, the next periodic report should contain information on the demographic composition of Portugal's population, on progress made in criminal procedures and on the outbreak of "skinhead" forms of racism.

Uruguay

127. The eighth, ninth, tenth and eleventh periodic reports of Uruguay, submitted in a single document (CERD/C/197/Add.3), were considered by the Committee at its 896th and 897th meetings, held on 8 March 1991 (see CERD/C/SR.896 and 897).

128. The reports were introduced by the representative of the State party, who drew attention to the various documents submitted by his Government that contained additional information to that already given in the report. He explained in that connection that in the compilation of statistics on Uruguay's demographic structure, classification by race or minority had traditionally been omitted since such classification could itself constitute a form of discrimination. The term "equality before the law", in article 8 of the Uruguayan Constitution, which had been referred to critically in the observations made by the Committee during the consideration of the previous report, fully coincided in its content with the term used in article 5 of the Convention.

129. The representative further stated that foreign communities resident in Uruguay enjoyed the same protection as nationals and had equal access to free public education, that all religions were respected and that foreign communities retained their national traditions without any restriction. Uruguay had complied with the recommendations made by international organizations and had substantially restricted its relations with South Africa. It was encouraging the process of change in South Africa with a view to achieving the total eradication of apartheid and the establishment of a State based on democratic and non-discriminatory principles. All of the requirements of articles 5 and 6 of the Convention were met in Uruguay and the remedies of domestic law were available to all inhabitants of the Republic. In accordance with article 14 of the Convention, under which Uruguay had been the first State party to make a declaration, individuals could also submit their complaints to the Committee for consideration. The fact that in practice no such complaints had been made to the Committee indicated that no violation of the Convention had been sufficiently important for proceedings before the Committee to be instituted.

130. The Government of Uruguay appreciated the constructive exchange of views its representatives had had with members of the Committee; that process would lead to the formulation of ideas for incorporating international rules in the practice and municipal law of Uruguay. It firmly intended to cooperate with the Committee on the Elimination of Racial Discrimination and with other relevant international organs and to engage in a useful dialogue for the purpose of achieving common objectives.

131. Members of the Committee welcomed the resumption of dialogue between Uruguay and the Committee and expressed appreciation to the representative of the reporting State for the additional information he had provided in his oral introduction. Noting the extreme brevity of the written report, which had not been compiled in accordance with the Committee's guidelines and did not contain any information concerning the demographic and precise ethnic composition of Uruguay's population, without which the Committee was unable to monitor implementation of the Convention, members expressed the hope that the Uruguayan Government would supply fuller information on that point in its next report. They thought it important to proceed with social and cultural research since this might bring to light situations contravening the Convention.

132. With reference to the 1986 Law on Expiration, members of the Committee wished to know whether the judiciary had regained its autonomy following the fall of the military regime; whether teachers who had lost their jobs for

political or ideological reasons had been reinstated; how many Uruguayans out of the 300,000 who left the country during the military regime had returned; and what the Government was doing to support the efforts of non-governmental organizations to ensure the pursuit of investigations into disappearances and executions under the military regime, notably in the cases of disappeared or unidentified children.

133. Members of the Committee reiterated their conviction that the provision contained in article 8 of the Constitution of Uruguay was not fully equivalent to prohibition of racial discrimination in the sense of article 2 of the Convention and expressed the hope that the Parliament would pass a law on the subject that the courts would be required to apply. They wished to know in that connection whether article 8 of the Constitution could be effectively invoked before the courts and requested more detailed information on the matter, as well as on the judicial system more generally. Noting that the incorporation of article 149 _bis_ and _ter_ into the Penal Code was presumably designed to implement article 2, paragraph 1 (b) and article 4, paragraph (a) of the Convention, members inquired about the extent to which that new provision had been invoked before the courts and wished to know, in particular, whether a prosecution under that provision had been brought in the case of the profaning of the Jewish cemetery at La Paz.

134. With reference to article 3 of the Convention, members of the Committee asked whether Uruguay still had diplomatic and trade relations with South Africa and requested that further data relating to the implementation of that article be included in the next report.

135. Concerning article 4 of the Convention, members of the Committee asked the Government of Uruguay to provide information in its next report on the banning of organizations based on racist ideas, in accordance with the provisions of paragraphs (a) and (b) of that article.

136. In connection with articles 5 and 6 of the Convention, members of the Committee noted that information provided in the report was inadequate and that, in particular, information on the Constitution and other legislation was incomplete. Since the Constitution did not set out precisely the measures required to give effect to the principles enshrined therein and legislative action was clearly needed, it was particularly important that the shortcomings of the report in the foregoing regard be remedied in the next report. Members also requested that information about the referendum be included in the next report.

137. Referring to the concerns of many members of the Committee about the absence of any classification of the population according to ethnic origin, the representative of the State party explained that Uruguayans considered themselves as Uruguayans and not as members of particular racial, ethnic or religious communities. Migration to Montevideo was a spontaneous phenomenon, caused primarily by economic factors such as the concentration of industry around the capital. The representative of Uruguay assured the Committee that the next report would be prepared in accordance with the Committee's guidelines.

138. With reference to article 2 of the Convention, and addressing the issue of the risk of discrimination on the part of either the legislative or the

executive, the representative said that a law that was discriminatory would contravene the Constitution and would be repealed. Similarly, a discriminatory decree would also violate the Constitution and the President, in signing it, would be breaking his oath to respect it. The law of amparo (Act No. 16,011 of 1988) provided that anyone who considered that his rights or liberties guaranteed under the Constitution had been infringed had the right to take amparo proceedings. Prohibition of racial discrimination was thus guaranteed as far as legislation was concerned and, since Uruguay was a State subject to the rule of law, it was also guaranteed in so far as court practice was concerned.

139. With regard to article 3 of the Convention, the representative of the reporting State declared that Uruguay had diplomatic relations with South Africa at the level of a chargé d'affaires ad interim and that trade ties with that country were insignificant.

140. Concerning article 4 of the Convention, the representative of the State party pointed out that organizations that promoted ideas or theories based on the superiority of a particular race or group of persons had long been banned by law in Uruguay.

141. In connection with article 5 of the Convention, the representative said that the literacy rate in Uruguay was one of the highest in Latin America - between 97 and 99 per cent of the adult population. All laws were published on the same day they were enacted, in the Official Gazette, to which all citizens had access. Civil rights monitoring groups, usually consisting of lawyers and other experts, also followed legislation such as Act No. 16,048 very closely and there was therefore no risk of the public not being aware of that Act.

142. With reference to the questions relating to the Law on Expiration and to the investigation of disappearances, the representative of Uruguay noted that, although these areas were not perhaps strictly within the terms of reference of the struggle against racial discrimination, the concerns of members of the Committee would be communicated to the Government. All of the questions left unanswered would be addressed in Uruguay's next report and the additional information requested by the Committee would be provided to it.

Concluding observations

143. Concluding their consideration of the report of Uruguay, members of the Committee acknowledged that their concerns about the report's inadequacy related primarily to the fact that the very significant changes that had taken place in Uruguay recently had not been adequately reflected in it. However, many questions had been answered orally. Members of the Committee noted that a number of extremely positive facts had emerged, both from the written report and from the oral presentation, including, in particular, the country's return to democracy and to the rule of law, which provided sure guarantees against any increase in racial tension or racial discrimination; the fact that Uruguay had resumed its dialogue with the Committee after eight years of silence; and the revision of the Penal Code through amendments that were in line with article 4, paragraphs (a) and (b) of the Convention and which represented very positive improvements. The Committee hoped that the Government of Uruguay would intensify its dialogue with the Committee in the future.

Malta

144. The eighth and ninth periodic reports of Malta, combined in a single document (CERD/C/171/Add.2), were considered by the Committee at its 897th meeting, held on 8 March 1991 (CERD/C/SR.897).

145. The reports were introduced by the representative of the State party, who said that racial discrimination was totally alien to the Maltese people and was condemned by the State. Efforts were being undertaken in the educational system to promote racial equality and tolerance. Since the compilation of the reports, no case of racial discrimination had been brought before the courts or reported in the media. Malta had recently ratified or acceded to five major international instruments, namely, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women.

146. Members of the Committee thanked the Maltese Government for its cooperation. Noting that no country was immune from acts of racial discrimination, they requested that information on the ethnic origins of the population be included in Malta's next periodic report. They also requested additional information about the preliminary report on constitutional reform that had been drafted by a parliamentary committee and which called in particular for measures to safeguard the independence of the judiciary.

147. With reference to article 2, members wished to know whether any perpetrator of an act of racial discrimination had ever been prosecuted under the Penal Code and whether all members of the public were aware that they were entitled to go to court if they considered themselves to have been victims of racial discrimination.

148. Concerning article 3, it was noted that Malta was a declared opponent of apartheid and that it had no diplomatic or other relations with South Africa.

149. With regard to the provisions of article 4, members of the Committee repeated that, contrary to the view taken by the reporting State, these were of a mandatory character.

150. In connection with article 5, members noted that while Maltese citizens had a de jure right to housing, work and education, political affiliations played an important role in employment, the public services and in the granting of import licences. It was asked in that connection what body, if any, had been established to investigate allegations of injustice or discrimination and what had been the outcome of such investigations.

151. In connection with article 6, members wished to know how Act No. XIV, under which the substantive articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms had been incorporated into Maltese law, and Act No. XV, which had established a Commission for Investigation of Injustices, were being applied, and whether Malta was giving any consideration to making the declaration provided for in article 14 of the Convention.

152. Replying to questions relating to the ethnic composition of the Maltese population, the representative indicated that such information was not included in the census but that an estimate would be included in the next report.

153. In reply to the comments raised with regard to article 4, the representative noted that his country was not the only one to have entered reservations on that article and reiterated his Government's scrupulous concern about preventing acts of discrimination.

154. With regard to article 6, the representative of the reporting State informed the Committee that the European Convention for the Protection of Human Rights and Fundamental Freedoms was frequently invoked in the courts.

155. The representative of the State party indicated that replies to other questions raised would be provided at a later stage either in writing or in the next periodic report.

Concluding observations

156. In the assessment made of the eighth and ninth periodic reports of Malta, the Committee noted that there had been a positive development since the presentation of Malta's previous report, and that the quality had improved. It appeared that the Committee and the Government of Malta continued to have a divergence of opinion over the mandatory nature of article 4. There was general agreement within the Committee that no State party could make a credible claim that its social or political system rendered racial discrimination impossible.

Canada

157. The ninth and tenth periodic reports of Canada (CERD/C/159/Add.3 and CERD/C/185/Add.3) were considered by the Committee at its 905th and 906th meetings, held on 15 March 1991 (see CERD/C/SR.905 and 906).

158. The reports were introduced by the representative of the State party, who noted that the responsibility for implementing the Convention was shared between the federal, provincial and territorial governments. According to the results of the 1986 census, the majority of Canadians were still of British or French origin, but approximately 4 per cent were of aboriginal origin and a third of the population of other than British or French origin. Visible minorities accounted for about 6 per cent of the country's population and close to one fifth of the population in major Canadian cities.

159. The increasing diversity of Canadian society precluded indifference to the presence of racial discrimination. Canada's position clearly was that racism and racial discrimination conflicted with its ideals, laws and the image of the kind of country Canadians wished to build. Accordingly, important steps had been taken to create a society reflecting the goals of the Convention. In particular, section 15 of the Canadian Charter on Rights and Freedoms, enshrined in the Constitution in 1982, provided a basis for government action to overcome discrimination of all kinds. That section, together with section 27 of the Charter, had been invoked by the Supreme Court of Canada in three recent decisions upholding prohibitions on the

dissemination of hate propaganda. A unique, federally founded Court Challenges Programme provided financial assistance to groups and individuals in legal challenges to laws or government programmes that they believed to be contrary to the equality or language-rights provisions of the Constitution. Federal, provincial or territorial human rights legislation also protected everyone in Canada against discrimination by non-governmental parties through the establishment of independent commissions to investigate, conciliate and, if necessary, litigate complaints of discrimination in the public and private sectors. Victims of racial discrimination thus had access to a full range of remedies in Canada. In addition, widespread public information programmes were conducted by human rights commissions and governments to ensure that all members of the community were aware of those measures.

160. Recognizing that anti-discrimination laws did not suffice, the Canadian Government had taken numerous other measures. The Federal Employment Equity Act aimed to ensure that women, disabled persons, aboriginal people and visible minorities were equitably represented in employment; the Canadian Multiculturalism Act set out the Government's multiculturalism policy and provided a legislative basis for financial and technical assistance to non-governmental organizations and individuals for activities which furthered the objectives of the Act. In March 1989 a plan of action to eliminate racial discrimination in Canada had been published; 21 March 1989, the first International Day for the Elimination of Racial Discrimination, had been made the focus of a major national public education campaign - a campaign which had since been broadened, with other governments in Canada also undertaking activities to mark the Day and the passage by the Canadian Parliament of legislation to establish and endorse a Canadian race relations foundation to foster racial harmony and help eliminate racism. Many of the federal initiatives were reflected in similar developments in the provinces and territories, including amendments to strengthen human rights legislation and expand the educational and enforcement roles of human rights commissions, as well as introducing or broadening multiculturalism and race relations laws, policies and programmes. Most of the major Canadian cities had also established policies, advisory bodies and programmes to fight racial discrimination.

161. With regard to aboriginal peoples, recent initiatives included the announcement in September 1990 of a government strategy to preserve the special place of indigenous people, based on the aboriginal and treaty rights contained in the Constitution. The Government's strategy was based on the acceleration of land claims settlement, the improvement of economic and social conditions on the reserves, legislative changes regarding the relationship between aboriginal peoples and the Government, and addressing the concerns of Canada's aboriginal peoples in contemporary life. There was no complacency about racial discrimination in Canada or in confronting complex and difficult issues in a multicultural society. Action was being taken, and the Convention and the contributions of the Committee would continue to be a source of guidance for the development of Canadian policy.

162. Members of the Committee, having noted with satisfaction the very high quality of the reports submitted by the Government of Canada and the significant efforts that had been made to comply with the Convention, pointed out that the Canadian Government had always done its best to fulfil its obligations under the Convention both in letter and in spirit and that its

relations with the Committee had been exemplary. They appreciated the fact that Canada had sent such a large and high-level delegation to represent it in the Committee.

163. With reference to the 1987 Constitutional Accord, members of the Committee wished to know what the repercussions had been for Canada as a whole of the failure of that Accord and what measures were being envisaged by the Government to overcome any consequent problems; whether the Constitution of Canada or other legislation contained any provision for the exercise of the right to self-determination, including arrangements for its implementation through a referendum; and whether the Canadian Government was considering making the declaration provided for under article 14 of the Convention. They requested further information on the functions, composition and methods of work of the human rights tribunal, the establishment of which was envisaged in the Canadian Charter of Human Rights. In connection with the demographic data that had been submitted and which was highly appreciated by the Committee, members wished to know what criteria were used to determine ethnic origins; what the difference was between "Black" and "African Black"; and how many immigrants of Bulgarian origin lived in Canada. They also wished to know what was meant by the words "a distinct society clause complements but does not override the Canadian Charter of Rights and Freedoms or adversely affect minorities" in the letter of clarification, and what the situation was with regard to the Parliamentary Commission set up to look into the "Canada clause" that would redefine the Canadian identity. Members also sought clarification of the dispute that had arisen between the Mohawks of Kanesatake and the Quebec provincial government over a plot of land bought by the municipality for use as a golf course.

164. With regard to article 1 of the Convention, members of the Committee noted that the references to racial tension and discrimination in the report demonstrated a commendable recognition by Canada of the existence of racial problems. They welcomed the information provided on the Canadian Multiculturalism Act and asked in that connection how many institutions and/or governments had actually implemented its provisions and, where they had not been implemented, what the reasons were for failure to do so.

165. With respect to article 2 of the Convention, members of the Committee wished to know what other measures, in addition to those mentioned in the report, had been adopted to protect and to advance the special position of the aboriginal peoples in Canadian society; what was being done to define aboriginal rights under the Canadian Constitution; whether the recent failure of the Meech Lake Accord would in any way jeopardize such rights; whether any specific procedure was being planned to enable aboriginal "nations" to negotiate self-government in the more comprehensive sense of the term; and what were the functions and powers of the provisional human rights councils or commissions. Particular questions were posed concerning negotiations with certain indigenous groups. Having noted that the Employment Equity Act represented a very significant step forward, members also asked whether there were any employers who had not complied with the provisions of the Act and, with a view to identifying obstacles to implementation, requested figures concerning its implementation. With reference to the measures adopted to exempt members of "visible minority" groups from certain provisions of the Public Service Employment Act, members wished to know whether this implied that such persons did not need to meet the education or skills requirements of

the public service, and hence implied what might be termed a levelling down of recruitment criteria. They also sought updated information on the Immigrant Access Service in connection with employment, health, family and other services.

166. Concerning article 3 of the Convention, members of the Committee stressed the need to continue to take practical measures to exert pressure on South Africa.

167. In connection with article 4 of the Convention, members of the Committee, having noted that the ruling of the Ontario Court of Appeal was a very important one in terms of compliance with the Convention, asked whether there had been any further ruling in the cases referred to in paragraphs 41 to 44 of the ninth report and paragraph 24 of the tenth report and, if so, what had been the verdict.

168. With regard to article 5 of the Convention, members of the Committee wished to know whether there were any restrictions on freedom of movement from one province to another, as well as on the right to settle and acquire property in another province; what was meant by the words "achieving a constitutional amendment on aboriginal self-government" in paragraph 13 of the tenth report; why a code of conduct for the police, introduced in 1989, had been found necessary and what the results of its introduction had been; and on what basis foreigners were admitted for immigration into Quebec and whether, in that connection, any problems of racial discrimination had arisen. Members also requested updated information on the Donald Marshall Jr. case, particularly regarding the report which had been promised for January 1990.

169. In addition, members wished to know what rights the aboriginals had if outsiders wanted to build factories on their land; whether the factories hired aboriginal workers and how they contributed to improvement of the lot of aboriginals; and whether any native groups were being devastated by alcoholism. More information was requested with respect to the indigenous peoples in Saskatchewan, where the uranium-mining industry had ignored their rights and disregarded the ecological and social effects of mining, and on how the study of languages was regulated. Members expressed the hope that the next periodic report would include more information on the implementation of article 5 and would provide an opportunity to review the extent to which the right to work and the right to health were protected against racial discrimination, as well as the effectiveness of remedies.

170. The representative of the State party, replying to the questions and comments of members of the Committee, said that relations between the Canadian Government and the aboriginals had evolved from one period to another in terms of specific economic and social conditions. The massive rejection by the aboriginals of the White Paper published by the Government in 1968 had led to a review of policy and to the recognition in the Constitution and in Canadian laws of the special status of the aboriginals. The Government had made great headway since the rejection of the 1968 White Paper and was now negotiating with the aboriginals on comprehensive land claims and self-government. The Constitution contained several provisions regarding aboriginal peoples in Canada, including section 35 of the Constitution Act, 1982, which defined such peoples as consisting of Indians, Inuit and other natives and recognized "the existing aboriginal and treaty rights of the aboriginal peoples".

171. The proposal by the Federal Government of the 1987 constitutional conference had included explicit recognition in the Constitution of the right of the aboriginal peoples to self-government and implementation of that right through negotiated agreements but, unfortunately, the proposal had not been approved. The 1990 Constitutional Accord had included a proposal for constitutional conferences every three years to discuss aboriginal constitutional matters, but this was obviated by the failure of the Meech Lake Accord. At present, a number of special commissions and committees were in the process of examining the Constitution as a whole and the aboriginal issues that were involved, but aboriginal rights were also being defined through other processes. The Federal Government had hoped that the Oka Mohawks' claims would form the subject of a negotiated agreement by January 1990 at the latest, but no agreement had thus far been reached.

172. The question of the self-determination of the aboriginal peoples did not fall within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination, and the Committee was not the appropriate forum to discuss the matter. The issue of making a declaration under article 14 of the Convention had been discussed at length at a meeting of federal and provisional ministers in 1986. However, since Canadians had a number of other measures available to them, more particularly, the machinery of the Human Rights Committee under the Optional Protocol, the ministers had not agreed to a declaration. Canada had at least 12 human rights commissions, councils and agencies to receive complaints of discrimination, as well as many other ombudsmen and bodies dealing with issues of access to information, language and privacy. The commissions, which were independent of the Government, had a mandate to investigate, conciliate and, if necessary, conduct litigation on behalf of complainants seeking a remedy against discriminatory practices. Complaints regarding discrimination brought by the Canadian Human Rights Commission against Bell Canada and Radio Canada were still before the courts. Statistics on ethnic origin were based on the principle of self-identification; if the report did not indicate the proportion of Canadians who regarded themselves as being of Bulgarian origin, it was in all likelihood because the proportion was low.

173. In relation to article 1 of the Convention, the representative of the reporting State said that the second report to Parliament described the role of multiculturalism in Canada's experience of nation building, the task performed by the newly created Department of Multiculturalism and Citizenship, and the ways in which the federal departments and agencies implemented the Multiculturalism Act. All 158 federal institutions had been asked to account for their activities and 137 had reported thus far. No major obstacles to the implementation of the multiculturalism policy had been identified, and it was clear that implementation would progress further as each institution gained experience. The planned amendments to the Indian Act were designed to bring Canadian legislation into line with the Canadian Charter of Rights and Freedoms and also to respond to the decision of the United Nations Human Rights Committee in the Lovelace case. The principles underlying the amendments were removal of discrimination, restoration of status and membership rights, and increased control by Indian bands over their own affairs.

174. With regard to article 2 of the Convention, the representative of the State party pointed out that employment equity programmes covered four

groups - women, disabled persons, visible minorities and aboriginal groups - and that the Employment Equity Act applied to all firms in the private sector falling under federal regulations employing about 650,000 wage earners. In addition, under federal policy, all heads of firms employing more than 100 people and wishing to submit tenders for federal contracts for more than $200,000 were required to certify their commitment to applying the provisions of the Employment Equity Act and implementing the relevant programmes. Some 1,350 firms were covered, with a total staff of approximately 1 million. The Federal Administration in its entirety was also required to apply the federal employment equity policy. The exclusions from provisions of the Public Service Employment Act were intended to expedite the recruitment of women, disabled persons, visible minorities and aboriginal peoples.

175. With reference to article 4 of the Convention, the representative of the State party said that in December 1990 the Supreme Court of Canada had ruled on the cases of John Ross Taylor, James Keegstra, Donald Andrews and Robert Smith and confirmed the judgements under legislation prohibiting incitement to hatred. It had not yet rendered its decision in the case of Ernst Zundel.

176. With regard to article 5 of the Convention, the representative of the State party said that the Royal Commission of Inquiry's conclusions concerning the Marshall case recognized, among other things, that there had been a miscarriage of justice and that criminal justice had failed at every stage of the proceedings. The Commission of Inquiry had, in connection with that case, made 82 recommendations on the administration of penal justice in Nova Scotia, and important measures had been taken by the provincial government and the Federal Government to draw lessons from that miscarriage of justice. Freedom of movement was guaranteed under section 6 of the Canadian Charter of Rights and Freedoms. However, some restrictive measures had been taken in some provinces. In cases involving protection of freedom of expression and the prohibition of racist propaganda, the courts sought to render both balanced and detailed judgements so as not to leave any loophole for incitement to hatred. Canada had no political party with an ethnic basis.

177. In connection with land claims issues, the representative indicated, that there were two types of claims processed in Canada: comprehensive land claims and specific claims. To reach a comprehensive land claims agreement, Canada was prepared to confirm a number of benefits and rights for the claimant groups, including land ownership; to provide various forms of financial compensation; to guarantee participation in land and water management and environmental protection; and to ensure resource and revenue-sharing and hunting and trapping rights. The standard of living of aboriginal peoples had risen in recent decades, and there had been spectacular improvements over the past 15 to 20 years in their health. Since 1960, Indians had been staying longer in school and, thanks to an ambitious higher education programme for Indian and Inuit students, there were now nearly 22,000 students from those groups receiving a higher education. A third of the entire housing stock for Indians on reserves had been built in the past six years and another third had been substantially renovated, and expenditure of $275 million had just been announced to expand water and sewerage services in some northerly communities. Life expectancy among the Indians, which had admittedly been lower than for the population as a whole, had increased by 10 years over the past three decades, but there was an alcohol problem in some communities.

Employment rates had risen 10 per cent between 1971 and 1986. Since these figures were still lower than for the Canadian population as a whole, the Government had launched special economic programmes to narrow the gap.

178. A total of 53 aboriginal languages were spoken in Canada, and three quarters of Indian students in federal schools and one third in provincial schools received instruction in their own language. In the Yukon and the Northwest Territory, where the aboriginals accounted for a high proportion of the population, the aboriginal languages were recognized in court proceedings.

Concluding observations

179. In concluding the consideration of Canada's ninth and tenth periodic reports, members of the Committee expressed their appreciation that the Canadian Government had submitted a very comprehensive report, prepared in accordance with the Committee's guidelines, and had not tried to cover up problems which could not fail to arise in such a complex society as Canada's. The very number and competence of the members of the Canadian delegation reflected the Government's willingness to pursue its dialogue with the Committee and to remedy problems which still impeded implementation of the Convention. However, some obstacles encountered in instituting self-government for the aboriginals had not been mentioned and the time-frame for responding to territorial claims by the aboriginal communities had not been indicated. It was unfortunate that the various provinces had not agreed at Meech Lake on the changes to be made in the Canadian Constitution.

United Kingdom of Great Britain and Northern Ireland

180. The tenth and eleventh reports of the United Kingdom of Great Britain and Northern Ireland (CERD/C/172/Adds.11 and 16 and CERD/C/197/Add.2) were considered by the Committee at its 907th and 908th meetings, held on 18 March 1991 (see CERD/C/SR.907 and 908).

181. The report was introduced by the representative of the reporting State, who noted that ethnic minority communities comprised some 5 per cent of the population of the United Kingdom, and that harmonious race relations were therefore crucial to the well-being of society. His Government attached great importance to its obligations under the Convention. The Committee's work was of great interest to it, as well as to all bodies concerned with community relations. Its role had been discussed at a recent seminar of the Commission for Racial Equality, held to commemorate the twentieth anniversary of the Committee.

182. The representative indicated that the Government had taken steps recently to strengthen the Race Relations Act of 1976 and to increase the effectiveness of the Commission for Racial Equality. It was expecting to consider, in the near future, a new review being undertaken by the Commission on Racial Equality, as well as a report by the independent Policy Studies Institute on the effectiveness of provisions against discrimination in employment. A Racial Attacks Group, which offered guidelines to police, housing and education authorities on preventing and dealing with racial harassment and attacks, had also been established. The controversy surrounding the publication of the book The Satanic Verses and the Gulf conflict had both

strained community relations, but the Government had tried, in conjunction with police and community leaders, to respond to these situations.

183. The representative also emphasized that, as disadvantages were being experienced by many people in the United Kingdom and not only ethnic minority members, it was important that problems be tackled on the basis of need rather than race. The "Action for Cities" programme, which sought to improve education on a community-wide basis but which would especially benefit the ethnic minorities who lived in the affected areas, exemplified this rationale. One hundred and fifteen million pounds sterling was being allocated annually to local authorities to support language and other programmes designed to improve minority participation in the community.

184. Members of the Committee expressed appreciation of the frankness of the reports presented and noted that, while they were generally drawn up in accordance with the Committee's guidelines, their format could be improved.

185. Noting that it had been decided to include a question about ethnic origin in the 1991 census, members wished to know why that had not been done earlier, and whether representatives of the ethnic groups had been consulted about the matter. They also wished to receive information concerning recent changes in immigration rules and their impact on specific groups, such as applicants in India who had been awaiting entry clearance and separated families, as well as on the rate of immigration.

186. Regarding articles 1 and 2 of the Convention, it was noted that the State party's reports did not indicate how indirect discrimination, outlawed in the Race Relations Act of 1976 in conformity with article 1 of the Convention, was actually interpreted. It appeared from some cases that the justifiability of certain discriminatory action on racial grounds was interpreted rather broadly, while that relating to sex discrimination was more narrowly interpreted. Further information on this matter, as well as on the proposed changes in the Employment Act as they affected the interpretation of indirect racial discrimination, was requested. Members also questioned the absence of legislation prohibiting discrimination on racial grounds in Northern Ireland and wished to know whether the Fair Employment (Northern Ireland) Act of 1989, which also prohibited indirect discrimination, contained a limitation provision similar to that found in the Race Relations Act.

187. Referring to measures such as the inner cities initiatives, urban programmes, city action teams and task forces, designed to prevent racial discrimination, to promote good race relations and to foster safety in urban areas, members wished to receive information on their effectiveness. With regard to the administration of justice as it affected minority groups, members expressed concern at the harsher treatment of ethnic minority members compared to the general population regarding prosecution, sentencing and treatment in prison and requested further information. They wished to know the reasons for attacks on minorities, particularly upon Asians, and suggested that the reports might have underestimated the incidence of racially motivated crime; how successfully the perpetrators of racial attacks and harassment had been prosecuted; whether the 1987 amendments to the Public Order Act had resulted in additional prosecutions; what efforts had been made to educate or inform the public about the need for mutual tolerance; and what changes had

occurred in ethnic minority participation in the police force and in the legal profession.

188. It was noted that the State party's reports did not provide any information on the implementation of article 3 of the Convention and, in that respect, were not in conformity with the Committee's guidelines.

189. Concerning article 4, clarification was requested of the interpretative statement of the United Kingdom on the Convention and its possible adverse implications for the full implementation of article 4 (b) in the context of the non-prohibition of the British National Party.

190. With respect to article 5, members referred with concern to the high rate of unemployment affecting minority groups. They cited instances of the under-representation of such groups in particular localities and occupations, and requested further information on the effectiveness of local authority measures to foster minority group-controlled businesses and on the access of minority groups to the social security system.

191. In connection with matters relating to equality of treatment in the allocation of housing, further information was requested on the code of practice developed to cover rented housing; the findings of the Housing Corporation survey; the action taken by the Commission for Racial Equality in cases of discriminatory practice by estate agents; and the contents of the booklet "Housing and Ethnic Minorities".

192. Regarding article 6, members wished to know what were the composition, procedures and mandate of the industrial tribunals; whether fees were charged for the consideration of cases by these tribunals; whether representation by a lawyer was necessary during the consideration of cases; and whether an industrial tribunal's decision on the discriminatory nature of employment advertisements for posts confined to members of certain minority groups had been upheld by the Court of Appeal.

193. Regarding article 7, members of the Committee emphasized the appropriateness of introducing education and information campaigns as measures to combat racial prejudice and promote racial understanding. They also wished to receive additional information about the status of the new Broadcasting Bill, which would make the establishment of community stations possible; the findings of the Swann Committee relating to minority education; and the percentage of minority students at all levels of education. Members expressed concern about the possibility that freedom of parental choice of schools might lead to a segregated system, a prospect apparently accepted by the Under-Secretary of State for Education on 4 December 1989, and by a decision of the Kirklees Council which seemed to allow the Education Act 1980 to subvert the provisions of the Race Relations Act. Separate schools for Catholics and Protestants in Northern Ireland had not helped community relations.

194. Concerning the dependent territories, members of the Committee sought additional demographic and other information in order to be able to ascertain the position of minority group members within particular dependent territories, and stressed the need for all these territories to legislate against racial discrimination in conformity with article 2 of the Convention.

Interest was expressed in receiving clarification on the right of former inhabitants of the Falkland Islands to return there; the opportunities available for secondary or higher education in the territories; and why the reservation to the Convention in relation to Fiji had not yet been withdrawn.

195. Responding to questions raised by members of the Committee, the representative of the reporting State said that the decision to include in the 1991 census a question relating to ethnic origin had been arrived at in consultation with the Commission for Racial Equality and ethnic minority organizations. Concerning immigration policy, the representative informed the Committee that in 1989 approximately 20,000 spouses and 9,000 children were authorized to settle in the United Kingdom and that family affiliation could now be determined definitively and objectively through DNA testing. The number of people awaiting visas had been reduced. Under the immigration legislation in cases of polygamous families, only one wife, who was at least 16 years old, could enter the United Kingdom. The 1981 Nationality Law entitled children born of parents settled in the United Kingdom to receive British nationality. Three quarters of the members of ethnic minorities in the United Kingdom held British nationality, and their children automatically received British nationality.

196. Responding to various questions raised by members of the Committee concerning articles 1 and 2, as well as the interpretation of indirect discrimination, the representative stated that great care had been taken during the drafting of anti-discrimination legislation to ensure that similar protection against indirect discrimination would be provided within each Act. However, the Sex Discrimination Act might provide for some preferential treatment for women in employer-organized training. Those applying a requirement disadvantaging a particular racial group had to prove its justifiability, and it would remain for the court to decide then whether such evidence outweighed the discrimination suffered. The Government was consulting with the Commission for Racial Equality on the provisions of the 1976 Race Relations Act, in the light of interpretations given by courts, in relation to the question of justifiability and the need for greater clarity on the issue of indirect discrimination. The views of members concerning the desirability of adopting legislation relating to protection against racial discrimination in Northern Ireland would be conveyed to the appropriate authorities.

197. The variety of initiatives in the inner cities could be explained by the fact that they pursued different objectives. For example, the safer cities programme was specifically targeted at crime reduction; the urban programme was a source of funding for all initiatives; the city action teams ensured central government coordination between different departments; and the task force efforts were primarily concerned with employment matters. The Government was addressing the matter of coordination between the different initiatives and the possible need for improved communication between them. A consultant's report on the achievements of the inner cities initiatives was expected in the near future and could be provided to the Committee.

198. Responding to questions raised with regard to racial attacks and the administration of justice as it affected minority groups, the representative noted that the process of classification and statistical compilation of incidents into non-racial and racial categories could be both difficult and

controversial and would not necessarily address the issue of whether the measures taken to reduce their incidence were effective. Legislation relating to the incitement of racial hatred was reinforced in the United Kingdom in 1986 and applied not only to the intention to incite racial hatred but also to any behaviour or publications likely to provoke racial hatred. Racial attacks were dealt with under the criminal law. The higher incidence of racial attacks committed against Asians could perhaps be explained by the way the Asian group set itself apart by differences in religion, culture and language to a greater extent than did the Afro-Caribbean communities. Prison department personnel were given special training on race relations. The disproportionate number of ethnic minority members in detention was not necessarily a result of discriminatory practices, and the phenomenon needed more careful analysis. Legislation was being prepared to strengthen the administration of justice and to improve the treatment of persons belonging to ethnic minorities. The Government was fully aware of the need to recruit and retain more ethnic minority police officers and the situation in that respect was gradually improving.

199. Concerning article 3 of the Convention, the representative reiterated the repudiation of apartheid by the United Kingdom.

200. In response to the questions raised concerning article 4 of the Convention, the representative of the State party informed the Committee that the policy in the United Kingdom was to punish any illegal acts committed by members of the British National Party rather than to ban the party itself.

201. In connection with observations made and questions raised regarding article 5, the representative informed the Committee that the fact that members of ethnic minorities continued to be especially adversely affected by unemployment could not be explained simply by the existence of racial discrimination, but was also a consequence of structural changes in the economy. The textile industry, which employed many ethnic minority group members, had been particularly affected by such changes. Racial discrimination had no role to play in determining access to social security, as such matters were dealt with according to place of residence.

202. Responding to concerns raised as to equality of treatment in the allocation of housing and other matters relating to the general housing situation, the representative emphasized that the problem of lack of accommodation affected all groups and could not simply be viewed as an ethnic group problem. An inquiry conducted by the Housing Corporation had revealed that 10 per cent of all lodgings newly built by the authorities had been allocated to ethnic minority members. The proportion was higher in areas where minorities were concentrated. A new code of practice, designed to prevent discrimination in the allocation of housing, would enter into force on 1 May 1991. The Government's decision to encourage parental choice of schools had been motivated by educational considerations. School segregation was no doubt primarily a product of demographic factors.

203. With reference to article 6 of the Convention, the representative explained that industrial tribunals were composed of a chairman and a representative for each of the two parties involved in an action. Their hearings were conducted relatively informally, and the presence of lawyers was not an essential requirement. The Commission for Racial Equality could order

a person found guilty of discriminating on racial grounds to stop such actions and could follow up on the matter to make certain that its decision had been obeyed.

204. With regard to the implementation of article 7, the representative said that the Education Reform Act of 1988 had introduced the idea of a national curriculum and placed emphasis on the need for school programmes to contribute to greater understanding of a multiracial society and to enhance harmonious relations between different groups. The Broadcasting Bill had become law in November 1990. Seven independent radio stations had been granted licences to serve minority listeners, and they had already gained a large ethnic minority audience.

205. Concerning the dependent territories, the representative stated that the observations of members relating to the Turks and Caicos Islands and to Fiji would be conveyed to the relevant departments. Anguilla had six primary schools and one secondary school for a school population of 2,000. For those seeking a university education, there were universities in the Caribbean region, and scholarships were also available in various dependent territories for those wishing to pursue studies outside of the Caribbean region. In the Falkland Islands, education was obligatory until the age of 16. The population on the Falkland Islands had fluctuated greatly in the last 20 years. Certain Islanders who had previously emigrated to New Zealand and Europe had now returned.

206. Responding to additional questions, the representative of the reporting State informed the Committee that the Government considered the increase in ethnic minority employment in small businesses and independent work to be a positive development. The Government recognized the danger of alienating the Muslim community and was engaged in dialogue with them concerning the possible need to adopt legislative safeguards in order better to protect that community's religious beliefs. There was considerable sentiment in favour of the abrogation of the law protecting the Anglican religion from blasphemy.

Concluding observations

207. At the conclusion of the consideration of the tenth and eleventh reports of the United Kingdom, the Committee made several observations.

208. The reports and annexes had provided very detailed and in-depth information on the situation with regard to racial discrimination in the United Kingdom. It was commendable that no attempt had been made to present the existing situation in the United Kingdom in a more favourable light than was warranted by the facts and that the Committee's attention had been drawn to the areas where the United Kingdom Government still saw a need for improvement. The United Kingdom Government had done a great deal to strike a fair balance between the interests of the various components of its multi-ethnic society, and its efforts were fully in keeping with the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination.

209. At the same time, it was necessary for the United Kingdom to make increased efforts to improve the situation of members of ethnic minorities with regard to education, employment, housing and economic standing. Other

steps, relating in particular to criminal prosecution, should also be taken to reduce significantly the number of incidents of incitement to racial hatred and racially motivated attacks.

Sweden

210. The tenth periodic report of Sweden (CERD/C/209/Add.1) was considered by the Committee at its 901st and 902nd meetings, held on 13 March 1991 (see CERD/C/SR.901 and 902).

211. The report was introduced by the representative of the reporting State, who declared his Government's commitment to meeting its obligations under the Convention and to addressing concerns expressed by the Committee during its consideration of Sweden's eighth and ninth periodic reports relating to the need to strengthen legal provisions against racist organizations and ethnic discrimination in the labour market and to review the effectiveness of the Act against Ethnic Discrimination. The Commission against Racism and Xenophobia, the mandate of which had been described in Sweden's eighth periodic report to the Committee, had been established in 1987 and had submitted its final report to the Government in March 1989. In May 1990, the Government had appointed a special expert to follow up on that report and to consider, as well, the above-mentioned concerns of the Committee.

212. The representative also noted that the Government had submitted a bill to Parliament in February 1990 concerning the restriction of freedom of expression in local radio broadcasts, referring in that connection to a recent court case which had resulted in the conviction, for agitation against an ethnic group, of the programme producer responsible for it. The station's broadcasting permit had been suspended for 12 months. Among the positive steps taken by the Government to foster better ethnic relations was an ordinance issued in June 1990 enhancing the Swedish Immigration Board's power to support projects designed either to further good ethnic relations or to strengthen immigrant organizations. To facilitate the monitoring of racial discrimination, offences involving unlawful discrimination and agitation against an ethnic group would be listed separately in the official crime register from January 1991. A government committee was also examining possible ways of strengthening the social and economic position of the Sami population in Swedish society, including the proposal for a popularly elected representative body.

213. Members of the Committee welcomed the high standard achieved by Sweden in protecting its ethnic minorities and the willingness of the Government to try to respond to the Committee's concerns. It was pointed out, however, that the report before the Committee continued the recent trend of focusing mainly on the treatment of immigrants rather than on measures taken to protect the Finnish and Sami minorities, which represented a significant part of the population. Concerning the latter, members expressed surprise that attempts to strengthen the legal position of the Samis had been initiated only in 1990, and requested information on the situation of the Samis, including their average income, their unemployment rate, educational attainment, health indicators and their representation both in government and in the civil service. They wished to know who owned the land used for reindeer husbandry and whether it was true that problems had arisen when Samis tried to cross State-owned land. In 1988, the Human Rights Committee had pronounced itself

on a case about entitlement to membership in Sami village communities (CCPR/C/D/197/1985). Such membership was important to participation in reindeer husbandry and Sami cultural activities. In this respect, the Reindeer Husbandry Act was in conflict with the requirements of the Convention. Members also requested further information on the implementation of the Sami School Ordinance.

214. Noting, in connection with article 2 of the Convention, that Sweden's immigration policy had recently become more restrictive and continued to accord citizens of Nordic countries preferential treatment, members wished to know how many refugees had been granted asylum in 1989 and 1990 and whether immigration had been restricted as a result of growing racist tendencies. They also wished to know, in connection with attacks against refugees occurring in Sweden, what had been the results of the relevant investigations, whether the perpetrators had been prosecuted, whether criminal proceedings under the current law had been effective in reducing the incidence of such offences and whether new legislation would make any difference. On a related matter, members noted with concern the severe cut recently made in the budget for educating children in their mother tongue and asked if the cut represented a change in Sweden's policy towards immigrants. Noting that children were sometimes removed from mothers who were considered unfit to care for them, it was asked whether this happened more frequently in respect of ethnic minority children. The settlement of immigrants in particular localities, usually referred to as residential segregation, could hinder the upward social mobility of ethnic minority children; information was requested on their educational attainments.

215. In addition, members wished to know what remedies existed to secure protection against a statute or regulation which led to discriminatory treatment in violation of chapter 2, section 15 of the Constitution, and questioned the efficacy of the Act against Ethnic Discrimination since it did not fully prohibit racial discrimination in employment nor provide effective protection in the areas of recruitment, special training or promotion. They also noted that the Ombudsman against Ethnic Discrimination seemed to have a status inferior to other Ombudsmen in the Swedish system since he was not authorized to pursue alleged violators in court nor require the submission of information under oath.

216. Regarding article 3 of the Convention, members noted with satisfaction that Sweden had implemented provisions concerning political and economic relations with South Africa to the widest extent possible.

217. Concerning the implementation of article 4 of the Convention, members wished to know what the Government's guidelines were when conflicts arose between prohibiting racial discrimination and protecting freedom of association and expression and what the final disposition had been of the relevant court case mentioned in the report; how often the provisions of the Penal Code involved in that case had been used in a similar fashion; and why the distribution of some literature of a neo-Nazi and anti-Semitic nature had not been prohibited. They expressed concern that in Sweden, as in some other European countries, organizations which promoted racial discrimination and incited to racial hatred were becoming more organized and better financed. National legislation must prevent their operation. Any failure to do so would represent a breach of article 4 (b) of the Convention.

218. With reference to article 5 of the Convention, members felt that the lack of protection against discrimination resulting from unfair treatment at the time of recruitment created a situation that was not in full conformity with commitments made under article 5 (e) (i) of the Convention. Further information in the next report was also requested on the situation of immigrants with regard to employment, unemployment, wages and skills.

219. Replying to the questions raised by members of the Committee, the representative of the reporting State said that the small number of non-Nordic citizens who were granted permission to enter Sweden to seek work gave the false impression that Sweden's immigration policy was unduly restrictive. In fact, a total of 44,672 people had been granted entry into Sweden during 1989, of which 24,800 were refugees or persons of similar status. The total number of immigrants in relation to Sweden's population of only 8.5 million was far higher than for any other European country. One Swede in eight was an immigrant or the descendant of an immigrant, a fact which accounted for the emphasis in Sweden's report on immigrants and their situation. In response to comments made about preferential treatment for immigrants from Nordic countries regarding employment opportunities, the representative drew attention to the agreements for a common labour market in force between Sweden and other Nordic countries, noting that any countries wishing to conclude agreements for close cooperation of that nature were entitled to do so.

220. The Government was attempting to achieve a fair balance in the relationship between freedom of association and freedom of speech. Investigations were under way to determine whether regulations could be formulated to penalize racist offences without actually imposing a ban on the organization concerned. Since freedom of expression necessarily precluded prior censorship, groups and individuals were free to apply to use the media and were held responsible only for how they used that freedom on the air or in print.

221. On questions relating to the situation of the Sami minority in Sweden, the representative explained the position regarding land ownership but was unable to supply precise statistics indicating the extent to which Samis participated in national life. Many chose to integrate themselves into Swedish society. What should be said was that they were given the same opportunities as everyone else and that the rights of the Samis as a minority had been a constant concern of the Swedish Government for very many years. He had been able to respond to many questions but further replies would be included in the next periodic report.

Concluding observations

222. At the conclusion of their consideration of the report, members of the Committee expressed satisfaction with the frank and constructive dialogue that continued between the Government of Sweden and the Committee. The Committee appreciated the fact that Sweden had accepted many refugees and immigrants and was trying to integrate them into Swedish society. It was nevertheless disturbing that the Government should have recently limited the number of immigrants and the resources devoted to their integration. The Committee called on Sweden to redouble its efforts to combat the hostility towards refugees that had recently been manifested. They noted the divergence of

views about the relative priority to be attached to the protection of freedom of expression and the prohibition of racial discrimination. Regarding the Samis, members considered that rather than trying to assimilate them into mainstream society the Government should endeavour to preserve their specific cultural identity. To that end, members wished to encourage the possible establishment of a Sami parliament.

Australia

223. The sixth periodic report (CERD/C/146/Add.3), and the seventh and eighth periodic reports submitted in one document (CERD/C/194/Add.2), were considered by the Committee at its 915th to 917th meetings, held on 6 and 7 August 1991 (see CERD/C/SR.915-917).

224. In his introductory statement, the representative of the reporting State welcomed the opportunity to continue his Government's constructive dialogue with the Committee. Australia was an open book on matters concerning human rights; the Government was committed to a policy of multiculturalism and was actively developing strategies to facilitate the more equitable sharing of resources among the country's diverse ethnic groups.

225. A number of significant changes had occurred since the fifth report of Australia had been considered. Among the most notable was the establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 1989. The Commission aims to promote the participation of indigenous groups in the formulation and implementation of policies affecting them and to further their economic, social and cultural development. This new structure permits the elected representatives of the Aboriginal and Torres Strait Islander peoples for the first time to determine for themselves the priorities and programmes affecting them, including the allocation of funds. The balance of power between the Minister for Aboriginal Affairs and the indigenous population had shifted dramatically as a result of this reform, although a certain scepticism persisted.

226. Drawing the attention of the Committee to the recently published national report of the Royal Commission into Aboriginal Deaths in Custody, the representative recalled that the Commission was formed to investigate the circumstances surrounding the deaths of 99 Aboriginal people in custody between 1980 and 1989. Although the Commission concluded that none of the deaths had resulted from deliberate use of unlawful violence by police and prison officials, the findings none the less pointed to the social and economic oppression experienced by many Aboriginal Australians. A joint forum of federal and State ministers was convened earlier this year to develop a coordinated response to the recommendations of the Commission by March 1992. The Australian Government had already implemented one of those recommendations by agreeing to accede to the Optional Protocol of the International Covenant on Civil and Political Rights. Further developments in this area would be covered in Australia's next periodic report.

227. A broad process of reconciliation had been recently announced by the Australian Government to transform relations between Australia's indigenous people and the wider community. The process sought to achieve its aims through an extensive public awareness and education campaign and the establishment of a Council for Aboriginal Reconciliation. Other important

initiatives presently being undertaken by the Government included the development of a National Aboriginal Health Strategy to address the significant problems in that area, and the response to recommendations contained in the report of the National Inquiry into Racist Violence, presented to the Commonwealth Parliament in April of this year.

228. Members of the Committee welcomed the representative's detailed and frank introduction to his Government's reports, thanked him for copies of the report of the National Inquiry into Racist Violence and noted with satisfaction the seriousness with which the Australian Government undertook its reporting obligations as evidenced by its detailed reports and the quality of its delegation.

229. In regard to article 2, members of the Committee pointed out that it was not clear from the reports exactly how the Australian Government discharged its obligation to ensure that the Convention was adequately implemented in each of its constituent States and territories. Concern was expressed over the status of the application of the Convention in those jurisdictions that had not passed anti-discrimination legislation subsequent to the adoption of the Equal Opportunity Act by the federal Government in 1984. Members of the Committee wished to know, in particular, about Aboriginal representation on the new Commission and similar bodies and why the Convention was not applied in the Australian Capital Territory, in Tasmania or in the Northern Territory, and asked for clarification concerning measures taken at the level of States and territories to improve the status of disadvantaged groups. They inquired about the "special needs" exceptions to some of the legislation. In connection with the new Commission on Human Rights, it was asked whether a fourth commissioner might not be appointed to deal with discrimination against Aboriginals.

230. Members of the Committee expressed concern over the situation of the Aboriginal people with regard to land rights and asked why the federal Government had abandoned efforts to pass legislation in that area, leaving the question to be decided instead by the States and territories. They wondered why no law on Aboriginal land rights was in force in Western Australia. They also wished to know why the Aboriginal people had opposed federal land rights legislation and what the difference was between the approach of the federal Government described in the reports and the approach actually taken by the States and territories in that regard.

231. Members of the Committee also expressed concern about the circumstances that gave rise to the Inquiry of the Royal Commission into Aboriginal Deaths in Custody. In that regard, they wished to know why the number of Aboriginal people in custody was disproportionately high; whether it was true that offenders arrested for minor offences were treated differently according to their ethnic background; why Aboriginal people were apparently being held in custody for such relatively minor offences as intoxication and the use of offensive language; whether any criminal prosecution had been brought in connection with these deaths; which jurisdictions had not accepted the recommendations of the Royal Commission and why they had not done so; and what the reason was for the August 1989 decision of the Supreme Court of New South Wales to reject the extradition of 16 Aboriginal detainees to Queensland.

232. Concerning article 3, members of the Committee wished to know what economic ties still existed between Australia and South Africa.

233. Regarding article 4, members of the Committee expressed regret that no figures were given in the reports of Australia on the number of persons who had been convicted of racist acts. Members also wished to know if, notwithstanding the findings contained in the report of the National Inquiry into Racist Violence, the Australian Government would continue to tolerate racist propaganda as a legitimate exercise of the freedom of expression. It was further noted that information regarding the implementation of article 4 (b) was lacking in the report.

234. In regard to article 5, members of the Committee inquired why special programmes to assist the Aboriginal and Torres Strait Islander people in exercising their social, economic and cultural rights had not been set up before 1987; what were the results to date of the programmes that had been established; what was the percentage of Aboriginals among skilled workers, university students and public sector employees; how many hospitals had been established in Aboriginal communities under the National Aboriginal Health Strategy; how the problem of alcoholism was tackled; and how many doctors and nurses spoke Aboriginal languages and were familiar with Aboriginal traditions. In addition, members of the Committee asked about the proportion of Aboriginal children in New South Wales who had been taken into institutional care and about the protection of sacred sites. They wished to know how many refugees had settled in Australia in recent years and what were their countries of origin.

235. With reference to article 6, members of the Committee wondered why no complaints had been received from residents of the Aboriginal community of Toomelah where, according to the eighth periodic report, people had been living in "appalling conditions"; why the number of complaints registered under the Racial Discrimination Act of 1975 had declined significantly between 1985 and 1990; and whether effective recourse measures were actually in operation.

236. Members of the Committee welcomed the decision of the Australian Government to accede to the Optional Protocol of the International Covenant on Civil and Political Rights and asked whether the Australian Government was also giving active consideration to making a declaration under article 14 of the Convention.

237. In his reply, the representative of Australia said that the Government had given priority to ensuring that Aboriginal and Torres Strait Islander people were adequately represented on commissions and in offices that were directly relevant to their communities. The proportion of Aboriginal persons working in the Aboriginal and Torres Strait Islander Commission, for example, was 40 per cent or more.

238. Concerning the relationship between the federal Racial Discrimination Act and State and territory anti-discrimination legislation, the representative noted that section 6A of the Act preserved the operation of State and territory laws that furthered the objectives of the Convention and that section 108 of the Australian Constitution ensured that any State or territorial legislation that was inconsistent with the Act would be

invalidated to the extent of the inconsistency. Thus, persons wishing to lodge complaints alleging racial discrimination could do so either with the federal Human Rights and Equal Opportunity Commission or, where applicable, with a commission or board established under State anti-discrimination legislation. The suggestion of a fourth commissioner should be considered. The federal Racial Discrimination Act applied throughout Australia and no separate legislation by States was required to ensure Australia's compliance with the Convention. In regard to the lack of anti-discrimination legislation in Tasmania, the Northern Territory and the Australian Capital Territory, those three jurisdictions were each preparing legislation against racial discrimination which, it was hoped, would be enacted by the time of Australia's next periodic report. Further information about the "special needs" exceptions was furnished.

239. Concerning article 3, the representative described the restrictions on economic ties with South Africa. Exports to that country had fallen, and little was imported from it.

240. In regard to article 4, significant criminal prosecutions of perpetrators of racist violence had taken place in Australia recently. The leader of the Australian Nationalist Movement, a racist organization, was convicted last year of 53 criminal offences and, along with other members of the Movement, had received a substantial prison sentence. In light of the recommendations of the inquiry into the causes of racist violence and the Commission report on Aboriginal deaths in custody, the Government of Australia would be considering various options, including possible legislation concerning incitement to racial hatred and violence. The reservation might be withdrawn and the possibility of a declaration under article 14 would be considered. These issues would be specifically addressed in Australia's next periodic report.

241. With regard to the Government's policy on Aboriginal land rights, it was now felt that the State-by-State approach was more appropriate than a federal solution. Legislation ensuring Aboriginal land rights was in the process of being drawn up in Queensland. A land rights bill introduced in Tasmania had been defeated in that State's Upper House but might be reconsidered later in 1991.

242. Referring to specific questions raised in connection with the deaths of 99 Aboriginal persons in custody between 1980 and 1989, the representative explained that 30 had died from hanging, 12 from trauma, 4 from gunshot wounds and 7 from other external wounds. The average age of those dying from natural causes was 30. An exhaustive investigation had concluded that no unlawful violence had been used, but it was recognized that measures must be undertaken as a priority to prevent further deaths in custody. Concerning the inquiry whether Aboriginals were too often held in custody when bail following arrest or the issue of a summons would be more appropriate, the representative noted that the need for a change in the practice was recognized and that new guidelines in this regard would be finalized by March 1992.

243. With reference to the Aboriginal cultural heritage, the representative declared it essential that skeletal remains in museums around the world be returned. He supported the policy of "keeping places", controlled by Aboriginals, for sacred objects.

Concluding observations

244. The Committee concluded that the reports submitted by Australia indicated that efforts were being undertaken by the federal Government to establish a multicultural society in Australia. This policy might, given the acquiescence of the majority population, improve the overall situation of all ethnic groups, including the Aboriginal and Torres Strait Islander people.

245. However, it was evident from the report, as well as from the oral introduction of the Australian delegation that the situation of the Aboriginal and Torres Strait Islander people required further affirmative action. Improvements were particularly needed in the area of education, employment, housing, land rights and health services.

246. The Committee recognized that the Australian Government has in recent years developed strategies and enacted policies to address these issues. These efforts fully conformed with the spirit and objectives of the Convention, and they marked significant progress when compared to the situation described in earlier reports. The Committee expected the Australian Government to pursue further and energetically its policies in this regard and to ensure implementation of the Convention in all States and territories under its jurisdiction. The Committee was encouraged by the commitment expressed by the Australian representative (the Minister for Aboriginal Affairs) to the cause and impressed with the supplementary information provided by his delegation. His positive attitude and his information about recent Government action towards improving the situation of Aboriginal and Torres Strait Islander people enabled the development of a constructive dialogue between the Australian delegation and the Committee.

247. The Committee wished to emphasize that it viewed the Australian federal Government as responsible for ensuring compliance with the obligations entered into under the Convention, at all levels of Government throughout its jurisdiction. The Committee took note of the affirmative response of the Australian representative concerning this issue.

Iraq

248. The Committee considered the ninth and tenth periodic reports of Iraq (CERD/C/159/Add.2 and CERD/C/185/Add.2) at its 917th and 920th to 922nd meetings on 7, 8 and 9 August 1991 (see CERD/C/SR.917 and 920-922).

249. The reports were introduced by the representative of the State party, who stressed the changes in Iraqi legislation relating to the implementation of the Convention since the submission of his Government's eighth report and referred to the part of the tenth report outlining fresh developments concerning autonomy in the region of Kurdistan over the same period. He stressed that the provisions of article 5 of the Convention would apply in Iraq to all citizens who enjoyed the rights enunciated in that article without any discrimination on grounds of origin.

250. The members of the Committee observed that the reports submitted covered the period up to 1989 and were now outdated. They contained information of a theoretical or formal nature and few references to the actual situation; and nothing was said about the implementation of the Convention in Iraq,

especially after the events which had occurred in the Gulf region since 2 August 1990. For those reasons, they considered that further precise information must be provided by the representative of Iraq or, if necessary, his Government in order to confirm Iraq's commitment to a constructive dialogue with the Committee. In addition, they noted that the report which Iraq had recently submitted to the Human Rights Committee (CCPR/C/64/Add.6) to a certain extent provided information supplementing the reports under consideration. They nevertheless observed that in the first part of the consideration of the report by the Human Rights Committee in 1991 most of the questions raised had gone unanswered, especially those concerning the persecution of the Kurds and Shiites; they hoped that Iraq would be in a position to modify that attitude and that its representative would be able to answer the questions asked during the discussion on the reports submitted to the Committee on the Elimination of Racial Discrimination and the questions of the Human Rights Committee during the continued consideration of the report in October 1991. The members of the Committee acknowledged that Iraq was in a difficult situation following its attempt to annex Kuwait. They nevertheless pointed out that their task was to consider the human rights situation in Iraq and, in particular, the situation of the rights embodied in the Convention, and that for that purpose it was essential to have all relevant information.

251. Referring to article 1 of the Convention, some members of the Committee requested further information on the ethnic composition of Iraq. In that connection, they observed that the general census operations had been carried out on the basis of Iraqi nationality and asked how the Government could implement the measures to enable the minorities to exercise their rights without discrimination if it did not know the groups which made up its population.

252. With regard to article 2, paragraph 1, of the Convention, some members of the Committee observed that the legal provisions, which, in Iraq, forbade the practice of all forms of racial discrimination, did not in themselves make it possible to guarantee the rights provided for in the Convention. They asked how many Kurds had fled the country during the war between Iraq and Iran and during the war of January/February 1991, and what measures had been taken by the Iraqi Government to guarantee the security of life, property and health of the Kurds. Clarification was also sought concerning the incidents which had occurred in the Kurdistan region in 1987 and the massive use of force against the Kurdish minority. Some members of the Committee wished to know whether the Shiite Muslims in Iraq were still being bombed, whether they were being prevented from receiving food supplies, whether it was true that chemical weapons had been used against the Shiite Muslims, what the reasons had been for those acts and whether the perpetrators of those or similar acts or the persons who had ordered them would be tried and convicted. As to Iraq's responsibilities vis-à-vis the population of Kuwait during the Iraqi occupation, the members of the Committee considered that that question fell within the scope of the Convention. They asked whether it was true that Iraq had tried to modify the demographic composition of Kuwait by expelling or executing Kuwaitis and what measures had been taken to protect women, children and civilians in general against such acts. Explanations were also sought about the destruction of the Shiite holy places, the attempts at forcible repatriation or displacement of thousands of Kurds, Shiites and other persons, the fate of Jews in Iraq and the restrictions that had been imposed on foreigners living in the country during the Gulf conflict.

253. Referring to article 2, paragraph 2, and article 5 of the Convention, some members of the Committee requested details of the composition and representation of ethnic groups in the Iraqi National Assembly following the elections held in April 1989, the composition of the Legislative Council of the Autonomous Region of Kurdistan following the elections of 10 September 1989 and the status of the Turkmenian, Syriac and Kurdish languages in Iraq. In addition, some members of the Committee wished to know the reasons that had prompted the Iraqi authorities not to take measures to protect the rights of the population of Kuwait during the occupation, in accordance with the provisions of article 5 of the Convention, and how article 5 (b) and (d) had been implemented in practice, notably with respect to the Kurds and Shiites. Information was requested, in particular, on the negotiations between the Iraqi Government and the Kurdish representatives currently being held in Baghdad and on any changes in the status of the Autonomous Region of Kurdistan that might result from those negotiations.

254. In connection with article 4 of the Convention, the question was asked whether the Iraqi legislative provisions prohibiting racial discrimination had remained applicable during the period when martial law had been in force in Iraq. It was also asked whether amnesty decrees Nos. 103 and 109 issued by the Revolutionary Command Council had applied to acts committed against the Kurds, the Shiites or the Kuwaiti population during the occupation of Kuwait by the Iraqi armed forces.

255. In his reply, the representative of Iraq acknowledged that the two reports submitted covered a period prior to the events which had occurred since 2 August 1990, but observed that the situation of Iraq after those events was already the subject of debate within several United Nations bodies and that most of the questions asked by the members of the Committee had in fact been political in character. Nevertheless, information concerning the implementation of the Convention in Iraq during the period following the events of 2 August 1990 would be supplied in his Government's next periodic report. He outlined the difficulties being experienced by his country and pointed out that the talks that had been held between the Iraqi Government and Kurdish representatives had related to private and secret negotiations.

256. Concerning the situation of the Shiites and of the Kurds in Iraq, the representative stressed that the intervention of the Iraqi army against the Shiites of southern Iraq was not due to conflicts or persecution based on their sect and that no racial problem or discrimination existed in Iraq with regard to the Shiites or the Kurds. Hundreds of thousands of Kurds had fled to Iran and Turkey with the intention of bringing pressure to bear on Iraq, and the so-called Kurdish problem originated with some elements of the Kurdish leadership supported by States attempting to destabilize Iraq. According to the United Nations High Commissioner for Refugees, nearly 480,000 Kurds had returned to Iraq, mostly to their own regions.

257. With reference to questions relating to article 2, paragraph 2, and article 5 of the Convention, the representative stated that the Legislative Council of the Autonomous Region of Kurdistan was fully independent from the National Assembly and composed of 50 elected members. The National Assembly was composed of 250 elected representatives from all regions of Iraq. The Kurdish language was an official language of the State, widely used and legally recognized, and minorities such as the Syrians, Turkomans and

Assyrians also enjoyed access to publications in their own languages. The representative also stressed that opposition parties in Iraq had been recently engaged in armed opposition to the Government. However, negotiations were now under way aiming at the establishment of a multi-party system in the country. Furthermore, revolutionary courts had been abolished in May 1991, and restrictions on foreign correspondents and on freedom of movement had been lifted. Referring to legal safeguards in Iraq, the representative pointed out that no one could be arrested without observance of proper legal procedures and that a Court of Administrative Justice had been established to deal with citizens' complaints against the State or the Administration.

Concluding observations

258. The Committee recorded that the Government of Iraq had undertaken to enter into a dialogue with the Committee and hoped that such an attitude would prevail. The Committee acknowledged that Iraq faced economic and political problems as the consequence of the recent events and that first steps had been initiated by it with a view to improving the human rights situation in general and, in particular, the situation of Kurds and other ethnic groups in Iraq. However, the Committee had not yet received the information which would enable it to assess the human rights situation in Iraq. The failure to address the treatment of ethnic groups in Iraq and, in particular, the treatment of citizens of Kuwait subsequent to 2 August 1990, since Iraq is under an obligation to respect and to ensure to all individuals under its jurisdiction or control the rights recognized in the Convention, was a matter of grave concern to the Committee. The Committee called upon the Government of Iraq to include the requested information in its eleventh report, due in 1991, and to submit the eleventh report in time for the Committee to be able to discuss it at its next session.

Bulgaria

259. The ninth, tenth and eleventh periodic reports of Bulgaria, submitted in one consolidated document (CERD/C/197/Add.4), were considered by the Committee at its 918th and 919th meetings on 7 and 8 August 1991 (see CERD/C/SR.918 and 919).

260. The reports were introduced by the representative of the reporting State, who pointed out that Bulgaria was undergoing a process of radical change in terms of both its international relations and its domestic policies. The events that had taken place since 10 November 1989 constituted a peaceful revolution which, despite a background of economic crisis, bitter political confrontation and ethnic tension had made the process of democratization irreversible. Free elections had thus been held the previous year, freedom of expression and association were now ensured, a new Constitution had been approved by Parliament and the transition to a market economy was under way. The changes had had a profound impact on the political, social and legal context in which Bulgaria was fulfilling its obligations under the Convention, and much of the information contained in the reports was therefore out of date.

261. Under the new Constitution, the Convention would form an integral part of domestic law and would take precedence over other laws in the event of incompatibility. Individuals would be able to invoke its provisions in proceedings before the administrative and judicial authorities in order to

uphold their rights. A newly created Constitutional Court would have the function of determining the compatibility of laws with the international treaties to which Bulgaria was a party. Furthermore, the Government was currently giving consideration to making the declaration in accordance with article 14 of the Convention and to withdrawing its reservation relating to the compulsory jurisdiction of the International Court of Justice. The new Constitution reflected the entire spectrum of civil, political, economic, social and cultural rights. Article 6 thereof proclaimed the principle of equality and non-discrimination and Article 44 specifically banned organizations inciting to racial, national, ethnic or religious hatred. Other constitutional provisions related to such matters as the prohibition of forced assimilation; the right of a citizen to study and use his mother tongue and to develop his culture according to his ethnic background; and to the inadmissibility of establishing political parties along ethnic, racial or religious lines.

262. Bulgarian Turks constituted the largest ethnic minority group, although the censuses taken since 1975 had disregarded ethnic, linguistic and religious affiliation and there was no reliable data on the exact size of the various minority groups. The country demographic composition would be obtained from the census scheduled for December 1991, which would be carried out in cooperation with the United Nations.

263. The repression of Muslims and Bulgarian Turks and the attempt to force them to assimilate, particularly during the last six years of the totalitarian regime, had been strongly condemned by the State and by public opinion after the regime's collapse. In the following two years, a broad range of measures had been introduced in order to restore the rights that had been violated and to provide compensation for wrongs and injuries. In particular, the judicial procedure for the restoration of names that had been forcibly changed had been replaced by a more streamlined procedure; an Amnesty and Restitution of Confiscated Property Act had been adopted; and the Law of June 1991 had been enacted, providing for the political and civic rehabilitation of all persons subjected to repression during the period of forced changes of name. Of the 369,000 Bulgarian Muslims that had emigrated to Turkey between May and September 1989, 155,000 had returned to Bulgaria. Since the end of 1989, measures had also been taken to restore the religious freedoms of all Bulgarian believers affected by various restrictions under the old regime, and the restrictions imposed on the use and study of the Turkish language had also been lifted. Although article 3 of the new Constitution provided that the official language of the country was Bulgarian, article 36 affirmed the right of all citizens whose mother tongue was not Bulgarian to use their own language.

264. The ethnic problems confronting Bulgaria were by no means easy to resolve, and the fact that they had been disregarded and concealed under the totalitarian regime had contributed to dangerous ethnic tension. At the same time, a solution to those problems had to take into account the traumatic effect on the population of five centuries of Ottoman rule and of instances of intransigence on the part of the largest minority itself. The Government was convinced that the solution was to be found in the comprehensive development of democracy and the rule of law and in respect for the rights and freedoms of all people, including those belonging to ethnic, linguistic and religious minority groups.

265. Members of the Committee commended the representative of the State party on his presentation. They welcomed the evolution towards liberalization and democratization in Bulgaria, in particular the advances made in the protection of human rights, the abandonment of the policy of forced assimilation of the Muslim minority of Turkish origin and of the accompanying repression, the adoption of a new Constitution, and the decision to conduct a new census at the end of 1991 that would provide an ethnic breakdown of the population. Noting that during the consideration of the last report a discussion had taken place with the representative of Bulgaria regarding the policy of forced assimilation, members were gratified to note that the eleventh report reflected a change in the Government's earlier attitude. At the same time, members expressed regret that the reports had not taken sufficiently into account the Committee's revised general guidelines (CERD/C/70/Rev.1) and that they had not provided sufficient information concerning the practical implementation of constitutional or legislative provisions. It was also noted that the reports still showed traces of the past terminology and used certain stereotyped expressions and sweeping statements. They suggested that the authorities' approach was insufficiently self-critical.

266. Noting the absence of a general part in the reports relating to the social, economic, political, institutional and legal framework within which the Convention was implemented in Bulgaria, members of the Committee wished to receive detailed information on the demographic composition of the population; on the situation of the Muslim Turks, the gypsies, the Armenians, the Macedonians and other ethnic groups as well as the various religious groups in Bulgaria; on the languages spoken by each group; and on the number of marriages between members of different ethnic groups. They also wished to know whether, in the context of the forthcoming national census, the applicable criterion for membership of ethnic groups would be self-identification; whether there was any legislation recognizing the existence of minorities in Bulgaria; and whether the Macedonians were recognized as an ethnic minority. The ideal of national unity should not mean assimilation; it could best be achieved by protecting the cultural identity of all groups. With reference to the specific situation of Bulgarian citizens of Turkish origin, members wished to receive further information on the nature of the measures that had been taken to restore their rights, and they inquired whether persons who had been dismissed had been able to return to their employment and persons who had been evicted had been able to return to their homes. Members also wished to know what measures had been taken to alleviate the effects of the economic crisis on the population.

267. With regard to article 2 of the Convention, members of the Committee wished to receive further information on the Declaration on the National Issue, adopted by the National Assembly on 15 January 1990, which was mentioned in the report. With respect to the implementation of article 2, paragraph 1 (e) of the Convention, it was asked whether there were integrationist multi-racial organizations in Bulgaria, whether the Government consulted with them and whether they were helped to learn about the Committee's consideration of the Government's reports. Given the record of earlier violations of basic rights, clarification was also requested of the statement in paragraph 12 of the report that neither Bulgarian legislation nor practice needed to be reconsidered.

268. With reference to article 3 of the Convention, members of the Committee expressed recognition for Bulgaria's continued and active commitment to the fight against apartheid. In the light of article 417 of the Penal Code, which provided for the death penalty for the crime of apartheid, it was asked whether Bulgaria intended to abolish the death penalty and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights.

269. With regard to articles 4 and 6 of the Convention, members of the Committee wished to know whether the prosecutor's office could bring actions in race-related cases; whether there was any provision for collective civil or criminal actions being initiated by associations protecting the interests of groups; whether racist manifestations such as the refusal to accord a right or provide a service for reasons of ethnic, national, racial or religious affiliation were punishable under Bulgarian law; how the Law on the State Liability for Damage Inflicted on Citizens was enforced; why members of the Turkish-speaking community were required to go to court, a lengthy and expensive process, in order to have their original names restored; and in what ways recognition of freedom of expression and association could influence the application of article 4 of the Convention. Further information was also requested on the implementation of the Administrative and Lawsuits Law and on measures taken to guarantee the independence and impartiality of the judiciary. Members also wished to know, in the light of the many acts of discrimination that had clearly been committed before 1989, why no complaints had been registered and no trials held, apart from that of the former Head of State.

270. In respect of article 5 of the Convention, members of the Committee wished to receive examples of legal decisions imposing penalties for violations of the principle of equal treatment before the tribunals. Further information was requested on the restrictions, if any, to access by members of minority groups to public service and to the right to freedom of movement; on the implementation of the right to work; on the employment situation and the fate of citizens of Turkish origin and Gypsies; on the right to work of foreign workers; on the implementation of ILO Convention No. 111; on the housing situation in the country; on the access to housing of citizens of Turkish, Muslim or Gypsy origin; on the abolition of censorship; and on the implementation of article 5 (f) of the Convention. It was also asked why political parties could not be formed on an ethnic basis; whether the various minority groups had been allowed to vote in the 1989 elections; if the new electoral law guaranteed each ethnic group representation in the legislature proportionate to its representation in the Bulgarian population; why an organization of Macedonians in Blagoevgrad had apparently not been permitted by the authorities to register as a social organization; what the conditions were for obtaining a passport; what institutions were competent in that matter; what groups of persons, referred to in the report, had not been allowed to obtain passports to travel abroad; whether there was any provision for a remedy in that respect; and if members of the Turkish minority who had left Bulgaria could recover Bulgarian nationality on their return to the country.

271. With reference to article 7 of the Convention, members of the Committee wished to know how the constitutional provision that citizens of non-Bulgarian origin had the right to study their mother tongue was applied in practice; how

many Turkish-speaking pupils studied Turkish as a vernacular language and how many students of non-Bulgarian origin actually studied in their own language; how many Turkish-speaking teachers who had left the country in 1989 had returned; and what measures were taken to inform magistrates and the police about the problems faced by minorities, particularly the Turkish-speaking community. Clarification was also requested of the nature of the major cultural activities and events mentioned in the report that had been regularly organized in regions with a large Turkish-speaking population, in particular between 1986 and 1989. They might have been occasions for totalitarian propaganda.

272. In his reply, the representative of the State party said that, since the report had been prepared before the new Government had taken office, any statement in it to the effect that implementation of the Convention posed no problem, that there was no racial discrimination in Bulgaria or that there was no need to reconsider Bulgarian practice or legislation was invalid. For example, despite the efforts made, there had been tension between the Gypsy community and the rest of the population. Bulgaria did not use the concept of a minority; the terms "ethnic" or "religious" group were preferred because there was no internationally recognized definition of the term "minority". Generally speaking, Bulgaria was convinced that the question of the civil, political, economic, social and cultural rights of all citizens could be solved satisfactorily, irrespective of ethnic, linguistic or religious group, by treating all citizens equally and without discrimination. Bulgaria was undergoing a very serious economic crisis that affected the implementation of the provisions of the Convention and it was in the process of switching to a market economy. Although compensatory measures were taken to help the most disadvantaged sectors of the population, there had been a marked decline in the standard of living in recent months.

273. According to the latest census, in 1975, there were approximately 630,000 Turks, 183,000 Gypsies, 15,000 Armenians, 9,000 Russians, 6,000 Tartars and 4,500 Greeks out of a total population of 8,700,000. With the forms prepared in consultation with the United Nations for the new census, the respondents alone could specify the ethnic group to which they considered they belonged, along with their mother tongue and their religion. Mixed marriages were very common among members of the Jewish and Armenian communities, but rarer among the Turks and Gypsies, who were not so well integrated into Bulgarian society.

274. As to article 2 of the Convention, the representative of the State party explained that, although it was not binding, the Declaration on the National Issue, adopted in January 1990, was still important in political scope. Furthermore, there were no organizations with the objectives defined in article 2, paragraph 1 (e), of the Convention.

275. In reply to questions concerning articles 4 and 6 of the Convention, the representative of the State party said that reparation for any damage suffered in regard to human rights could be obtained only on an administrative basis. Acts of racial discrimination, and hence denial of a person's right on the grounds of ethnic affiliation, were deemed punishable under the Penal Code. The forms of racial discrimination not covered by the present code would be included in the new one that was being prepared. Proceedings against persons for attempts at forcible assimilation could be based on article 162 of the

Penal Code, concerning incitement to racial hatred, although the penalties in such cases were very light. The fact that no complaints of racial discrimination were brought before the courts could be explained in all likelihood by a lack of confidence on the part of the persons concerned. As legal entities, human rights associations could bring both civil and criminal actions. In regard to the judicial procedures for restoring the names of Bulgarian citizens that had been changed by force, the representative explained that the previous procedure, which had proved very lengthy, had been replaced by a very straightforward administrative formality whereby 600,000 had recovered their previous names.

276. With reference to article 5 of the Convention, the representative of the State party pointed out that article 28 of the Constitution prohibited forcible assimilation. Bulgarian citizens of Turkish origin who had left the country could return and recover their nationality. Since the mass exodus in 1989, the movement was continuing, and for every three Bulgarians who emigrated to Turkey one returned to Bulgaria. All Bulgarian citizens were free to emigrate; an exit visa was no longer necessary and Bulgarian citizens were encouraged to return. Under the ordinance adopted in August 1991, immovable property belonging to the State could be bought back by the former owners at the price it was worth at the time. If the property no longer belonged to the State, the former owners could receive compensation for an equivalent amount. The criteria for allocating housing were exclusively economic and social. There was no discrimination regarding the right to vote and there had been massive participation by the Turks in the first free democratic elections, in 1990. Although there was no arrangement for a minimum number of deputies for ethnic minorities, Parliament included some 20 Turkish deputies. Both the Constitution and the Political Parties Law expressly prohibited the establishment of political parties on an ethnic or religious basis, something which would make for separatism, but the prohibition did not prevent members of ethnic or religious groups from being included in political party lists or forming organizations that could present candidates for the elections. An organization made up of Macedonians had been prohibited in the district of Blagoevgrad because it had pursued separatist aims. Although public opinion at the present time was such that the death penalty could not be abolished, it had none the less been decided in November 1989 to suspend enforcement of death sentences.

277. With reference to article 7 of the Convention, the representative of the State party said that article 54 of the Constitution laid down the right of everyone to foster his own culture in terms of his ethnic affiliation. Further to an agreement between the Government and the United Nations Centre for Human Rights, all the international human rights instruments and a pamphlet on instruction in such rights were soon to be translated into Bulgarian. Moreover, a seminar was scheduled to be held shortly in cooperation with the Centre for Human Rights to acquaint members of the forces of law and order, magistrates and diplomatic personnel with the machinery for the protection of human rights. The Committee's report on its consideration of Bulgaria's report was, in addition, to be brought to the attention of human rights organizations.

Concluding observations

278. Following the consideration of Bulgaria's reports, the members of the Committee again welcomed developments in the country in the direction of democracy and the rule of law. The sincere dialogue between the Committee and the high-calibre delegation had been exceptional and had provided many encouraging signs, such as the announcement of Bulgaria's forthcoming declaration under article 14 of the Convention, the withdrawal of its reservation to the Convention and a new census to be conducted with United Nations support, as well as the changes in domestic law, marked by the adoption of a new constitution and a number of amnesty laws and laws on restoration of lands. There were still some outstanding matters, however, such as the absence of information on trials for racism, the continued restrictions on access to public service, the situation of the Gypsies and Macedonians and the prohibition on forming political parties on an ethnic basis. The hope was expressed that Bulgaria's next report would supply information on the results of the census scheduled for the end of 1991, on compensation and reparation for the victims of totalitarianism and on condemnations of violations of human rights.

Sierra Leone

279. At its 921st meeting, on 8 August 1991 (see CERD/C/SR.921), the Committee reviewed the implementation of the Convention by Sierra Leone based on its previous reports (CERD/C/R.30/Add.43 and 46 and CERD/C/R.70/Add.22) and their consideration by the Committee (see CERD/C/SR.153, 159, 161, 204 and 215). The Committee noted that no reports had been received from the State party since 1974.

280. Members of the Committee recalled, in connection with those previous reports, that the Committee had considered them to be insufficient; that Section 13 (4) (g) of the Constitution had been deemed incompatible with article 1 (3) of the Convention and that the Committee had requested the Government to submit additional information on the implementation of the Convention.

281. Members of the Committee further noted that many changes had taken place in Sierra Leone in the past 17 years, including the establishment of a new constitutional framework, and that Sierra Leone was expected to adopt a new constitution soon. To reopen discussion on the basis of the previous reports would scarcely be useful. It was more important to send a new communication to the State, accompanied by the records of the current and preceding sessions, requesting information about constitutional and other developments in the State.

Concluding observations

282. The Committee regretted that Sierra Leone had not responded to its invitation to participate in its meeting and to furnish relevant information. In concluding the review, the Committee decided that a communication should be sent to the Government of the reporting State stressing the importance of compliance with reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

Swaziland

283. At its 921st meeting on 8 August 1991 (see CERD/C/SR.921), the Committee reviewed the implementation of the Convention by Swaziland based on its previous report (CERD/C/R.70/Add.18) and its consideration by the Committee (see CERD/C/SR.205). The Committee noted that no information had been received from the State party since 1974.

284. Members of the Committee recalled that in the third periodic report the Government had provided information on the demographic composition of the country and had elaborated on the persistent political instability in the country. It was also recalled that subsequent to the consideration of that report, the Committee had requested additional information concerning the review of the Constitution and the concentration of economic power in the hands of a minority. Members noted that the law on nationality in Swaziland, which provided that Swazi nationality was conferred only on children of a Swazi father, accounted for a large number of stateless persons in the country.

285. Members of the Committee also noted that the democratic system had been abolished in March 1977 and that a new Constitution had been adopted in 1978. They wished to receive information on ethnic discrimination that favoured the Swazis and on the arrest of students and unionists as well as of members of the United People's Democratic Movement that had allegedly taken place in May or June 1991.

Concluding observations

286. In concluding the review, the Committee regretted that Swaziland had not responded to its invitation to participate in its meeting and to furnish information. It decided to request the Government of the State party to submit to the Committee information relevant to its implementation of the Convention, particularly with regard to provisions of the Constitution relating to ethnic problems. The Committee also drew attention to the possibility of the State party requesting technical assistance from the United Nations Centre for Human Rights to facilitate the preparation of reports to treaty monitoring bodies.

Guinea

287. At its 921st meeting, on 8 August 1991 (see CERD/C/SR.921) the Committee reviewed the implementation of the Convention by Guinea based on its previous report (CERD/C/15/Add.1) and its consideration by the Committee (see CERD/C/SR.369). The Committee noted with regret that no report had been submitted to the Committee since 1977.

288. Members of the Committee observed that the Guinean people had recently adopted a new Constitution, which was fundamentally different from the previous one. They noted further that article 1 of the Guinean Constitution appeared to be in conformity with article 1 of the Convention, since it provided that all citizens were to be treated on a basis of equality without any discrimination whatsoever, regardless of race, ancestry, ethnic origin, sex, religion or opinion. They wished to receive additional information on the new Constitution, as well as on the demographic composition of the population.

289. Concerning article 5 (b) of the Convention, members of the Committee wished to receive information on the status of those Guineans and Liberians who had crossed into Guinea to escape the conflict in Liberia and on the number of Guinean nationals who had fled their country during the reign of Mr. Sékoe Touré and the number who had returned to the country. They also wished to know whether it was true that the principal State organs were staffed by one ethnic group and the police by another group.

Concluding observations

290. In concluding the review, the Committee regretted that despite its invitation Guinea had not participated in its meeting and had not furnished relevant information and decided to request the Government of the State party to submit a report in line with the relevant guidelines.

Zaire

291. At its 921st meeting, on 8 August 1991 (see CERD/C/SR.921), the Committee reviewed the implementation of the Convention by Zaire based on its previous report (CERD/C/46/Add.4) and its consideration by the Committee (see CERD/C/SR.486 and 487). The Committee noted that no reports had been received from the State party during the past 11 years.

292. Members of the Committee noted that there were almost 320,000 refugees in Zaire, 300,000 of whom were from Angola, and that approximately 200 different ethnic groups lived in Zaire. It was also noted that four principal languages were spoken in Zaire, that a Sudanese minority lived in the north of the country, a Nilotic minority in the north-east and Pygmy and Hamite minorities in the east. In the foregoing connection, members of the Committee requested information on the situation of refugees in Zaire and wished to know whether the biggest opposition party recruited members from a particular ethnic group and whether there was an ethnic dimension to political conflicts.

293. In relation to article 1 of the Convention, members of the Committee also wished to know whether the new Constitution contained a similar provision to that of the 1974 Constitution prohibiting all racial, ethnic and religious discriminatory acts and all regional propaganda activities that threatened the internal security of the State or the territorial integrity of the Republic; and, if so, whether persons of mixed African and non-African origin were also protected, whether the relevant constitutional provisions were consistent with the restrictions and preferences set out in article 1 of the Convention and whether discrimination based on colour or national origin was considered illegal.

294. Concerning article 2 of the Convention, members of the Committee wished to know what measures had been taken to ensure that public authorities and services complied with the legislation relating to the prohibition of racism, tribalism and racial, ethnic, tribal and regional discrimination; and whether public service employment of members of ethnic groups within a given region was proportionate to the size of ethnic groups living there.

295. In addition, members of the Committee pointed out that the second periodic report did not contain information regarding the implementation of article 2,

paragraph 1, of the Convention and that no mention had been made of any special measures taken to assure the development of disadvantaged racial groups.

296. With regard to article 3 of the Convention, members of the Committee noted that the second periodic report did not contain any information on economic and diplomatic relations between South Africa and Zaire. In that connection, clarification was sought as to whether the South African army had trained units of the Zairian army, whether Zaire was a major importer of South African products and whether South African airplanes were entitled to land on Zairian territory.

297. Concerning article 4 of the Convention and recalling the obligatory nature of its provisions, members of the Committee wished to know whether there were any statistics on the number of complaints of racial discrimination or incitement to racial hatred or any relevant court cases. They also asked whether any difficulties had been encountered in implementing the provisions of articles 2 and 4 of the Convention, given the need also to protect the right to freedom of association.

298. In relation to article 5 of the Convention, members of the Committee sought information as to how article 5 (a) was implemented and also noted that the report did not contain information regarding the implementation of article 5 (d) (ii), (iii), (v), (vi) and (ix). Concerning article 5 (e) (v) members requested information about the results of planned measures to promote balanced access to university.

299. With regard to article 6, members of the Committee asked whether tribunals had ordered the payment of damages to victims of racial discrimination.

300. Concerning article 7, members of the Committee wished to know what were the major causes for racial discrimination in Zaire; what measures had been taken to combat such discrimination and which of those measures had been found the most effective.

Concluding observations

301. In concluding the review, the Committee regretted the fact that despite its invitation Zaire had not participated in the Committee's meeting nor furnished the Committee with relevant information. The Committee decided to communicate to the reporting State the importance of complying with the reporting obligations under the Convention, drawing the State party's attention to the possibility of requesting technical assistance in the preparation of reports to human rights treaty bodies, and to inform the State party of the Committee's review of its report. The Committee also expressed the hope that the State party would present its next periodic report as soon as possible and would send a representative to participate in the consideration of the report by the Committee.

Gambia

302. At its 921st meeting, on 8 August 1991 (see CERD/C/SR.921) the Committee reviewed the implementation of the Convention by the Gambia based on its initial report (CERD/C/61/Add.3) and its consideration by the Committee (see

CERD/C/SR.550). The Committee noted that no reports had been received since 1980.

303. Members of the Committee recalled that during the examination of the Gambia's initial report, the Committee had asked for the texts of the Constitution and the Penal Code, as well as for clarifications regarding some provisions of those texts, including article 25 of the Constitution. Questions had also been raised concerning the ethnic composition of the Gambian population and the influence of certain tribes on the country's political parties. In addition, the Committee had suggested certain revisions to the Penal Code in order to bring it into conformity with article 4 of the Convention, which was obligatory in character. Members also noted that the report did not contain information on the law pertaining to the awarding of compensation for acts of racial discrimination.

Concluding observations

304. Members of the Committee recalled that the Gambia had played a major role in the promotion and protection of human rights in Africa and that it was all the more important for it to meet its reporting obligations under the Convention.

305. In concluding the review, the Committee regretted that the Gambia had not responded to its invitation to participate in its meeting and to furnish relevant information. It decided that all the necessary documentation should be forwarded to the State party in order to facilitate the presentation of a new report, in line with the Committee's guidelines, as soon as possible.

Côte d'Ivoire

306. At its 922nd meeting, on 8 August 1991 (see CERD/C/SR.922), the Committee reviewed the implementation of the Convention by Côte d'Ivoire based on its previous reports (CERD/C/64/Add.2) and their consideration by the Committee (see CERD/C/SR.510 and 511). The Committee noted that the State party had not submitted a report since 1980, but was pleased that representatives of the State party were participating in the Committee's current review of the earlier reports.

307. The representative of the State party expressed his Government's regret at its failure to submit a periodic report since 1980 and explained that this had been due to economic and administrative difficulties facing the country. This in no way detracted from its determination to meet its obligations under the Convention and its continued support of the work of the Committee. He, therefore, requested a further three months in which to submit a full report covering the period 1980-1991, which would include replies to questions and comments raised by the Committee and further information on measures taken to implement the Convention.

308. The representative of the State party also informed the Committee of domestic legislative provisions relating to the implementation of the Convention, including those contained in the Constitution, providing for equality before the law for all without distinction as to origin, race, sex or religion, and those making any particularist propaganda of a racial or ethnic nature and any manifestation of racial discrimination punishable by law. He

indicated, moreover, that provisions relating to the prevention and punishment of discriminatory attitudes and practices were contained in the Civil Code, the Code of Nationality, the Code of Civil Procedure, the Penal Code and the Code of Penal Procedure.

309. In addition, the representative of the State party informed the Committee that there were 60 ethnic groups in his country, along with a substantial foreign community. A multi-party system had been introduced under the present Government, consisting of some 40 political parties, some of which were represented in Parliament and controlled in some of the larger municipalities through elected mayors. As evidence of the country's democratic structure, the representative noted that numerous independent trade unions had been established and that freedom of the press, with the existence of approximately 20 newspapers representing various political trends and the sale of foreign newspapers, had also been established.

310. Côte d'Ivoire also played an active part in regional cooperation and the establishment of regional and subregional organizations. It welcomed the recent significant changes in South Africa and continued to encourage dialogue as the only means of working out a new strategy for the dismantlement of the odious system of apartheid.

311. Members of the Committee thanked the representative for providing the Committee with useful information and explanations. As regards the long delay in submitting a report, they recognized that many countries had difficulty in meeting their reporting obligations under the various international instruments, but noted that assistance in the preparation of reports could be made available through the programme of advisory services of the United Nations Centre for Human Rights.

312. Members of the Committee recalled that the previous reports had been deemed satisfactory from the point of view of conformity with the guidelines and that the Committee had noted the significance of the country's ethnic characteristics. Other points previously emphasized by the Committee concerned the right to nationality, the right to own property and the right to work. In the foregoing connection, the Committee had drawn attention to the large number of applications for naturalization by foreigners, had noted that non-nationals had considerable holdings in many companies established in Côte d'Ivoire and that Côte d'Ivoire was a party to ILO Convention No. 111 concerning discrimination in respect of employment and occupation. However, the Committee had also noted the lack of information on the effective implementation of domestic legislation, in particular with regard to the number of complaints filed for discriminatory acts, examples of judgements handed down by the courts and the widely reported restrictions on press and trade union freedom.

313. Members of the Committee wished to receive information concerning recent events, including the social consequences of the financial crisis affecting the country and the measures being taken to assist the most disadvantaged sections of the population; the identity of the most disadvantaged elements in the population; the continued restrictions on press freedom; the new, independent Ligue ivoirienne des Droits de l'Homme; and the detention without charge in the spring of 1991 of activists from opposition parties, of trade unionists and of teachers who had taken part in demonstrations. They also

wished to know whether the rural infrastructure was being developed with a view to shifting from reliance on cocoa and coffee to food crops.

314. The State party was requested to provide the Committee with a complete report, in accordance with the Committee's guidelines, containing, in particular, an up-to-date breakdown of the population, including the percentage of foreigners; an analysis of how the various articles of the Convention were applied in practice; a description of the relevant laws, particularly the Penal Code, as amended in 1981, and how such laws were actually applied; and details concerning any difficulties encountered.

315. Replying to some of the questions raised by members of the Committee, the representative of the State party explained that under the Constitution political parties could be formed, and several had in fact been formed since 1990, but that there was a national consensus that because of the country's economic difficulties one party government was preferable. Freedom of association and expression was respected, and three or four demonstrations had been taking place daily. Those arrested had taken advantage of the demonstrations to commit acts of vandalism, but they had been released after interrogation.

316. With regard to the economic crisis facing the country, the representative of the State party informed the Committee that this was due to the fall in cocoa and coffee prices, on which the livelihood of over 60 per cent of the population depended. Concerning the ethnic composition of the population, it was difficult to pinpoint which section was poorest in terms of geographical zones, but the Government was attempting to help the most disadvantaged through the building of inexpensive accommodations and the payment of unemployment benefits. Free medical and child benefits were also provided to poor families, and the Government was also encouraging the diversification of crops.

317. The State party representative informed the Committee that replies to all of the questions that had been raised would be provided in the next report. Noting that staff recruitment and coordination presented particular problems in his country, the representative expressed the hope that assistance in preparing Côte d'Ivoire's report to the Committee would be provided by the United Nations, so that it could be produced more quickly.

Concluding observations

318. In concluding the review, the Committee thanked the delegation for appearing before it and for explaining the reasons for the delay in the submission of reports that were due. The Committee also expressed appreciation for the delegation's efforts to respond to some of its questions. It took note of the intention of the Government of Côte d'Ivoire to submit a written report soon.

Lebanon

319. At its 923rd meeting on 12 August 1991 (see CERD/C/SR.923), the Committee reviewed the implementation of the Convention by Lebanon based on its previous reports (CERD/C/65/Add.4) and their consideration by the Committee (see

CERD/C/SR.516). The Committee noted that the State party had submitted no reports since 1980.

320. Members of the Committee recalled that in its previous reports the State party had stated that it was not necessary to adopt any new measures to implement the Convention, since the relevant principles had always been a part of Lebanese domestic law. It also noted that the country's demographic and political structure was typified by a pluralism based on a religious infrastructure; that the council of ministers, as well as parliament, were elected according to fixed quotas allotted to each of the religious communities; and that according to the Government those rules of election should not be interpreted as constituting inequalities among citizens on the basis of their religious affiliation. It was further noted that the Committee had asked to be provided with additional information on the judiciary and on the equality of rights and had expressed its doubts as to whether the Penal Code adequately reflected the provisions of article 4 of the Convention.

321. Members of the Committee noted that the demographic composition of Lebanon had gone through considerable changes since the last census and that its population was now half Muslim and half Christian, with most communities having Arabic as their mother tongue. Turning to recent political developments in the country, members of the Committee observed that attempts were being undertaken to reconcile the warring factions in Lebanon, although the situation was still very difficult. In addition, members of the Committee further noted that in some cemeteries, tombstones of persons belonging to different religious and ethnic communities had been desecrated.

322. Members of the Committee wished to receive information concerning groups that had been subject to serious human rights violations, including in particular the Christian groups, military as well as civilian, who had supported General Aoun; the Shiite populations in the south that had been subjected to numerous arrests; and the individuals who had been arrested by the Amal movement.

Concluding observations

323. In concluding the review, the Committee noted with regret that the Government of Lebanon had not responded to its invitation to participate in its meeting and to furnish relevant information. The Committee, being fully aware of the complex actual political situation, encouraged the Lebanese Government to resume the dialogue with the Committee by submitting a report in conformity with article 9 of the Convention, as soon as possible.

Gabon

324. At its 923rd meeting, on 12 August 1991 (see CERD/C/SR.923), the Committee reviewed the implementation of the Convention by Gabon based on its previous report (CERD/C/71/Add.1) and its consideration by the Committee (see CERD/C/SR.550). The Committee noted that no report had been received from the State party since 1982.

325. Members of the Committee recalled that the Committee had expressed serious concern about the lack of information in the previous report and that it had been unable to accept the statement in that report that the Government

did not consider it necessary to take any measures whatsoever in the context of racial discrimination.

326. Members of the Committee noted that, according to information available to them, Gabon had adopted a new Constitution and had embarked on the road to democracy by introducing a multi-party system. The Government had also adopted a charter of freedoms that was to be compatible with the Universal Declaration of Human Rights. Members of the Committee wished to receive more information on the application of the new Constitution, of the charter of freedoms, and of the African Charter on Human and Peoples' Rights.

Concluding observations

327. In concluding the review, the Committee regretted that Gabon had not responded to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance from the United Nations Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

Togo

328. At its 924th meeting on 12 August 1991 (see CERD/C/SR.924), the Committee reviewed the implementation of the Convention by Togo based on its previous reports (CERD/C/75/Add.12) and their consideration by the Committee (see CERD/C/SR.640 and 641). The Committee noted that no information had been received from the State party since 1983.

329. With regard to the previous reports, members of the Committee recalled that the Government of Togo had submitted detailed information, according to which the Togolese Constitution provided for rights and freedoms without distinction as to origin, sex, belief or opinion, as stipulated by article 5 of the Convention, but did not prohibit discrimination on the basis of language or property. However, members of the Committee noted in this connection that in its initial report submitted to the Human Rights Committee (CCPR/C/36/Add.5), of 11 November 1988, the Government of Togo had stated that the rights recognized in the International Covenant on Civil and Political Rights were enjoyed by the entire population without distinction as to race, colour, sex, language, religion, political and other opinion, national or social origins, property, birth or other status, and that the various ethnic, linguistic and religious groups were entitled to enjoy their own culture and to profess and practice their own religion.

330. Disagreement had been voiced, during the consideration of previous reports, with the Government's view that it was unnecessary to declare punishable by law any acts, practices, organizations or institutions based on racial discrimination. They had also wished to know whether there were any provisions defining the circumstances in which the President of the Republic was empowered to proclaim a state of emergency and regulating its duration; whether it was possible to suspend the rights and freedoms recognized under article 5 of the Convention; whether the National Assembly had the right to review such measures; and whether the President could dissolve the National Assembly in such a situation. In addition, members had requested

information concerning racial discrimination-related activities of the Interministerial Commission on Human Rights.

331. Turning to more recent developments, members of the Committee noted that a National Human Rights Commission had been established on 9 June 1987, which would protect the civil and individual rights of citizens, recommend legislation, organize seminars and symposia, and which could consider petitions from individuals who claimed that their rights had been violated as a result of an act or omission of the Government. They asked to be provided with that Commission's annual reports in the future. Furthermore, noting that in March and April 1991, a number of injuries had occurred during student demonstrations and that a commission had been established to investigate those events, as well as the role played by the armed forces, members of the Committee wished to be informed of that Commission's findings. They also wished to know whether members of the ethnic group to which the President belonged enjoyed preferential treatment in the army and in certain areas of political life; what measures had been taken to alleviate existing tribal tensions; what had been done about the situation of those farmers who had been resettled by force; and what progress had been made with regard to the organization of a referendum on a new Constitution. With regard to the latter, it was requested that provisions of the new Constitution be communicated to the Committee.

Concluding observations

332. In concluding its review, the Committee regretted that, despite its invitation, Togo had not participated in its meeting or furnished relevant information. The Committee invited the Government to resume the dialogue with the Committee by submitting the reports that were due as soon as possible.

Uganda

333. At its 921st meeting, on 13 August 1991 (see CERD/C/SR.921), the Committee reviewed the implementation of the Convention by Uganda based on its initial report (CERD/C/71/Add.2) and its consideration by the Committee (see CERD/C/SR.680 and 687). The Committee noted that no report had been submitted since 1984.

334. Members of the Committee recalled in connection with the consideration of the initial report that Uganda was an extremely complex multiracial country with more than 40 ethnic groups living there, although precise figures for the numbers of persons in each ethnic group were not available. It was also recalled that the Committee had been of the opinion that the provisions of article 20 of the 1967 Constitution, which was still in force, were not adequate to ensure the implementation of the Convention and that no specific legislative measures for the direct application of provisions of the Convention in Ugandan tribunals had been promulgated. Concerning the implementation of article 4 of the Convention, the Committee had been of the view that while the provisions of the Penal Code addressed incitement to violence they did not deal with other eventualities such as simple incitement to racial hatred. As regards article 5, the Committee had sought more specific information on the provisions of the Constitution that provided the legal basis for the protection of fundamental rights covered therein.

335. Members of the Committee noted that a number of changes had taken place in Uganda since 1984. A new Constitution was to be adopted based on the will of the people; the provisions of the 1967 Constitution concerning legislative and executive powers had been suspended; and, in general, a great deal still needed to be done to re-establish the primacy of the law in the State. Members also noted that owing to the systematic shortage of resources, the judicial process was slow and difficult and that in certain matters of a political nature, the judicial power was not independent from that of the executive.

336. Members of the Committee noted with appreciation the efforts being undertaken by the present Government to ensure the unity of Uganda, but underlined that ethnic divisions, tribalism and religious intolerance continued to contribute to wars and political conflicts. In that connection, members of the Committee wished to receive information relating to the evacuation of villagers from the District of Kumi at the beginning of 1990 and the alleged massacres of civilians by the army in rural areas of Uganda. Noting that the mandates of the commissions of inquiry charged with examining abuses of human rights of former regimes had been expanded to cover inquiries into present day instances of human rights violations, members of the Committee requested information on the problems encountered by these commissions and the outcome of their inquiries.

337. With respect to the implementation of article 5 of the Convention, members of the Committee noted that the continuing conflicts in the North and the East had contributed to the deterioration of the social fabric of the infrastructure in Uganda and made it difficult to guarantee human rights on an equal basis. In that regard, particular mention was made of restrictions on freedom of opinion and expression. Concerning article 6, members of the Committee were of the opinion that specific laws to implement the provisions of this article should be promulgated since the recourse procedures in cases of discrimination did not appear to be adequate. Concerning the implementation of article 7, members drew the attention of the State party to the additional reporting guidelines pertaining to that article that had been adopted by the Committee.

Concluding observations

338. In concluding its review of the report, the Committee regretted that Uganda's second periodic report, due in 1983, had not yet been submitted and that no representative had been in attendance for the reconsideration of the initial report. The Committee expressed concern about reports suggesting that because of the insurgency in the northern part of the country ethnic tensions were sometimes acute and led to loss of life. Great interest was expressed in receiving further information on the work of the Commission of Inquiry and of the Council of Investigation Division relating to human rights violations, particularly with regard to the ethnic dimension. The Committee hoped for a candid account of the problems encountered and any successes achieved in a forthcoming report.

Fiji

339. At its 925th and 926th meetings held on 13 August 1991 (see CERD/C/SR.925-926), the Committee reviewed the implementation of the

Convention by Fiji based on its previous report (CERD/C/89/Add.3) and its consideration by the Committee (see CERD/C/SR.629). The Committee noted that no report had been submitted since 1982.

340. Members of the Committee recalled that on the occasion of the consideration of the previous report members had expressed doubts about the compatibility of Fiji's reservation with the Convention; about the conformity of the Constitution and the Penal Code with article 4 of the Convention; and about the conformity of the electoral system with article 5 of the Convention. It had also been observed that the demographic balance in Fiji was delicate.

341. Members of the Committee noted that in 1986 the population of Fiji had comprised 329,000 Fijians, 348,000 Indians and 37,000 persons belonging to other ethnic groups, and that, since the coup d'état of 1987, there had been a significant emigration of Indians. The coup d'état had had as its objective the maintenance of political power and land property rights in the hands of indigenous Fijians. The Government had promulgated the Constitution of the Sovereign Democratic Republic of Fiji in 1990, under which a central role is assigned to the Grand Council of Chiefs (Bose Levu Vakaturaga). It was noted that the electoral process that was used in constituting that body and other State organs did not guarantee full representation, especially for the Indian population, and that the elections to the Chamber of Representatives had been organized according to racial quotas, thereby institutionalizing racial discrimination in the country. It was also noted that a considerable number of Fijians were not registered in their clan's register and that, as a consequence, they could not vote. Members of the Committee wished to receive information on racial tensions in the country and on the violent acts that had occurred against persons belonging to the Indian community and against Indian temples, as well as regarding the kidnapping of the chairman of a group against racial discrimination.

342. In addition, members of the Committee requested clarification regarding chapter 2 of the Constitution, which provided that freedom of expression could be limited by law to protect the name, dignity and esteem of the institutions and values of the Fijian people, particularly the Grand Council of Chiefs; of laws that could restrict freedom of movement or of residence in the interest of defence, public security, and public order and of provisions authorizing the President and the armed forces to take special measures in a situation of subversion or in a state of emergency.

Concluding observations

343. The Committee noted with regret that Fiji had not reported to the Committee and was not able to send a representative to the meeting of the Committee. Having discussed the new constitutional developments which had taken place in Fiji and the reservations it had made on ratification and taking note of the express concern of members of the Committee about possible discrimination against Indians in respect of the exercise of political and economic rights, the Committee called upon the Government of Fiji to resume its dialogue with the Committee by filing the reports which were due. In reporting, the Government should take account of the questions asked and the concerns raised at the meeting at which the Committee discussed Fiji.

Bahamas

344. At its 926th meeting, on 13 August 1991 (see CERD/C/SR.926), the Committee reviewed the implementation of the Convention by the Bahamas based on its previous reports (CERD/C/88/Add.2) and their consideration by the Committee (see CERD/C/SR.610). The Committee noted that no information had been received from the State party since 1983.

345. The Committee recalled that the previous reports had not conformed to the reporting guidelines and were somewhat unbalanced in that they were largely devoted to a discussion of the application of article 5 of the Convention. The Committee also noted that no specific legislation had been enacted to make the provisions of the Convention directly enforceable before the courts, on the grounds that the measures set out in the Constitution were adequate; that the definition of the expression "discriminatory" in article 26 of the Constitution should be brought into line with that contained in article 1 of the Convention; and that no information had been provided on measures for securing the adequate advancement of certain backward racial or ethnic groups.

Concluding observations

346. In concluding the review, the Committee regretted that the Bahamas had not responded to its invitation to participate in its meeting and to furnish relevant information. It decided to request the State party to submit the reports due and wished to draw the attention of the State party to the availability of technical assistance from the United Nations Centre for Human Rights in the preparation of reports to treaty monitoring bodies.

Mexico

347. The seventh and eighth periodic reports of Mexico, submitted in one consolidated document (CERD/C/194/Add.1), were considered by the Committee at its 930th and 931st meetings, held on 15 and 16 August 1991 (see CERD/C/SR.930 and 931).

348. The report was introduced by the representative of the State party, who stressed that the President of Mexico had given priority attention to the conditions and problems of the indigenous populations, which constituted 9 per cent of the total population of the country. The representative explained that in addition to the National Solidarity Programme, under which indigenous peoples and communities were priority targets, a national commission for indigenous peoples had been established in 1989 to study possible reforms to the Constitution and to eliminate injustices suffered by those peoples. As a further step, the President of the Republic had submitted, on 7 December 1990, a draft Decree that supplemented article 4 of the Constitution by recognizing the rights of the indigenous peoples. The National Institute for Indigenous Affairs (INI) has also now prepared and circulated the National Programme for the Development of the Indigenous Peoples for 1991-1994. The current policy of the Government of Mexico was based on respect for indigenous people and communities by guaranteeing equal access to the law and protecting and developing their cultures, social organizations and resources.

349. Members of the Committee welcomed the report of Mexico, which responded to the issues raised during the consideration of previous reports, provided a satisfactory assessment of the measures taken in the country to implement the Convention and reflected the willingness of the Mexican authorities to engage in a dialogue with the Committee. However, they observed that the report did not fully comply, in its format, to the Committee's guidelines for reporting and did not furnish the required outline of the general social, economic, political and institutional framework within which implementation was taking place, nor did it contain replies to some of the questions raised during the consideration of the previous reports. Members of the Committee pointed out that more adequate information on the demographic situation of Mexico was necessary, particularly with regard to the proportion of indigenous people in the population, their ethnic breakdown, their birth rates and their migratory movements, particularly of Amerindians. Some information was also necessary with regard to economic trends, the inflation rate, social tensions, the migration of rural populations and the process of renewal and democratization currently taking place in Mexico.

350. With reference to article 2 of the Convention, members of the Committee acknowledged the importance of legislative reforms taken by the Mexican authorities to improve the situation of the indigenous populations. In this connection, they wished to know whether any criteria had been established to assess the effects of those measures; whether the new regulations for obtaining confessions applied only to accused persons who were members of indigenous communities or socially disadvantaged; whether concrete results had been obtained by the Justice Programme for Indigenous Peoples; what the role and composition were of the National Commission of Justice for Indigenous Peoples; and how that body coordinated its activities with those of the National Human Rights Commission. In addition, reference was made to information provided by the report as well as Amnesty International with regard to the continuing conflicts, acts of violence, illegal arrests, expulsions and other human rights violations of which peasants and indigenous persons had been victims, in particular, in the States of Oaxaca and Chiapas. In that regard, members wished to know what measures the Mexican Government had taken to solve conflicts between landowners and indigenous peoples; whether the recommendations of the National Human Rights Commission were legally binding; and whether they were followed by the legal and administrative authorities concerned in cases in which the statutory time-limit for sentencing had been exceeded.

351. With regard to article 4 of the Convention, members of the Committee noted that Mexican authorities had not yet adopted specific legislation prohibiting racial discrimination, claiming that existing Constitutional and penal provisions were sufficient to guarantee human rights without discrimination and that special legislation was not necessary. In that connection, stressing that such legislation was an obligation under the Convention, members expressed the hope that Mexico would change its position. They also asked whether legal proceedings could be instituted and sentences pronounced by the courts on the sole basis of the violation of provisions of the Convention, without reference to the provisions of the Mexican Penal Code.

352. With reference to article 5 of the Convention, information was requested on the number of persons belonging to indigenous or peasant communities who had been elected to parliament or who had acceded to public functions; on the

number of marriages between indigenous and non-indigenous persons; on measures taken by the Government to facilitate access of indigenous people to land; and on measures taken to help poor people living in urban areas. It was also asked whether the National Solidarity Programme was improving the economic and social situation of the Mexican population and what its impact had been on the implementation of paragraphs (d) and (e) of article 5 of the Convention.

353. In connection with article 6 of the Convention, members of the Committee requested statistics on the number of amparo proceedings instituted in Mexico by indigenous persons and peasants, as well as more information about the judicial procedure for receiving complaints of racial discrimination made by Mexican citizens. They also wished to know whether associations or interest groups representing certain categories of the population could institute amparo proceedings. In addition, the hope was expressed that the Mexican Government would agree to make the declaration provided for in article 14 of the Convention.

354. With regard to article 7 of the Convention, it was asked what the illiteracy levels were in the indigenous population; whether measures had been taken to make available television channels with programmes in indigenous languages; what the Government's position was in respect of the request for recognition of indigenous languages as national languages; and whether educational programmes to combat prejudice against indigenous people were available to the members of the police force.

355. In his reply, the representative of Mexico assured the Committee that his Government's next periodic report would be prepared in accordance with the Committee's general guidelines for presentation of the reports of States parties and would contain information on the economic, social, political, cultural and demographic situation of the country. He stated that the indigenous population of Mexico was increasing by 2.9 per cent per annum as against 2.3 per cent for the rest of the population.

356. With regard to the questions raised in connection with article 2 of the Convention, he said that any defendant belonging to an ethnic group was provided with the assistance of translators and lawyers, through the National Institute for Indigenous Affairs, and interpreters, in virtue of the new legislative provisions of 1 February 1991. Furthermore, an agreement concluded in July 1991 between the Office of the Attorney-General of the Republic and the National Institute for Indigenous Affairs to aid indigenous citizens undergoing a preliminary investigation or prosecution brought nearer the objectives of the Justice Programme for Indigenous Peoples. Indigenous prisoners were in most cases accused of drug trafficking and represented about 7 per cent of the total prison population. As a result of penal reforms, the number of indigenous prisoners was steadily decreasing. The National Commission on Justice for Indigenous Peoples was taking part in the Justice Programme with other bodies, such as the National Human Rights Commission, which were responsible for the coordination of activities.

357. With regard to the disputes between different communities over the agrarian question in the States of Oaxaca and Chiapas, the representative stated that his Government was concerned about the situation and had instructed the National Human Rights Commission and the National Institute for Indigenous Affairs to go into the matter. The Commission had visited the

State of Oaxaca and had, inter alia, made recommendations for the punishment of the police officers accused of torture. The recommendations of the National Human Rights Commission, whose instructions were to protect the interests of all sectors of the Mexican population, had no binding force but were generally followed. Seven of those recommendations were aimed at speeding up judicial proceedings.

358. With reference to article 4 of the Convention, the representative referred to his Government's position, as set out in the report, with regard to the absence from the national legislation of specific provisions declaring all acts of racism illegal. No complaints of racial discrimination had yet been laid before either the courts or the National Human Rights Commission. International treaties such as the Convention, which had been ratified by the Senate of Mexico, had the force of law throughout the national territory and could be relied upon before the courts, particularly in criminal cases. Furthermore, a person found guilty of racial discrimination would incur the penalty prescribed in article 364.2 of the Federal Criminal Code for violation of the rights and guarantees recognized in the Constitution.

359. With reference to article 5 of the Convention, the representative stated that in Mexico no distinction was made between indigenous and other citizens employed in the public sector and that he had no statistics on interethnic marriages. However, he provided statistics on the flight of the indigenous people from the countryside, noting that in 1980 10.6 per cent of them had been enumerated in regions other than their region of origin. He also provided information on the programme of land distribution to the indigenous inhabitants and the procedures for its application. The main aim of the programme was to regularize the indigenous inhabitants' occupation of land they were already working.

360. With reference to article 6 of the Convention, the representative stated that there were no statistics in Mexico on the number of applications for amparo made by peasants; there was nothing to prevent a particular group from using that remedy, provided, however, that each of its members drew up an individual application. Mexico proposed to make the declaration provided for in article 14 of the Convention.

361. With regard to article 7 of the Convention, the representative stated that the Mexican Government proposed to strengthen the health and education programmes in the regions in which indigenous populations were concentrated rather than to extend the television network in those regions. In accordance with the Federal Code of Criminal Procedure, police officers, magistrates and judges were informed of the rights of the indigenous inhabitants.

Concluding observations

362. The Committee welcomed the fact that Mexico had submitted its report in good time and that its representative had replied very pertinently to the questions put to him. The Committee also expressed satisfaction that Mexico proposed to make the declaration provided for in article 14 of the Convention.

363. The Committee observed that there were in Mexico economic and social disparities between the different categories of the population that led to serious discrimination that ought to be remedied, even if it was not of a

directly racist character. The Mexican Government had set about that task, for it had undertaken several reforms in favour of the indigenous inhabitants, the peasants and the least privileged social categories. In addition, the Committee expressed the hope that the Mexican Government would take the guidelines issued by the Committee more closely into account in preparing its next report. It regretted, however, that Mexico had not modified its position with regard to the interpretation of article 4 of the Convention.

Israel

364. The fifth and sixth periodic reports of Israel, submitted in one document (CERD/C/192/Add.2), were considered by the Committee at its 929th to 932nd, 935th and 936th meetings, held on 15, 16, 20 and 22 August 1991 (see CERD/C/SR.929-932, 935 and 936).

365. The reports were introduced by the representative of the State party, who said that pluralism was one of the strengths of Israeli society, as was demonstrated in the events surrounding the Gulf War. Arab Israelis, who comprise 16 per cent of the population, did not respond to Iraqi calls for Israel's destruction. The recent arrival of an additional 14,500 Ethiopian Jews and the influx of 90,000 Jews from the Soviet Union in the first six months of 1991 were further evidence of the absence of xenophobia or racism in Israel.

366. A wide range of affirmative action measures had been undertaken by the Government to reduce the social and economic differences between Jews and non-Jews in the State of Israel. Over the last two years, $US 75 million had been allocated specifically for programmes benefiting Israeli Arabs. Another programme foresaw the investment of $US 100 million over five years to improve educational facilities for the Arab population. Significant progress for the non-Jewish population of Israel had been made in the area of health care, as indicated by the fact that 85 to 90 per cent of all pregnant Israeli-Arab women were giving birth in clinics operating in 107 Arab towns and villages.

367. The representative of Israel pointed out that there were six members of the Israeli parliament who were Arabs and that their questions raised in parliament were more likely to be answered than those of their Jewish colleagues. Of 14 staff working in the Prime Minister's Office dealing with Arab affairs, 4 were members of the Arab community. David Ben-Gurion, the former Prime Minister of Israel, had declared that "in the long run, nations will be judged by the way in which they treat their minorities". Using this criterion, the record of Israel was a favourable one.

368. Members of the Committee thanked the delegation of Israel for the supplementary information furnished in its oral introduction and welcomed the occasion to renew its dialogue with Israel. The self-congratulatory tone of parts of the report was, however, unsatisfactory. The Committee underlined that, in accordance with article 3 of the Convention, Israel's report needed to encompass the entire population under the jurisdiction of the Government of Israel. The report under consideration, which described the situation only within the State of Israel itself, was, in that respect, incomplete. Members also wished to have specific information on the economic, social and educational conditions prevailing in the occupied territories, as well as to

know whether the Geneva Convention relative to the Protection of Civilian Persons in Times of War was in force in the occupied territories.

369. With reference to article 2, members of the Committee drew attention to paragraph 22 of the report, in which it was stated that government-sponsored educational benefits are linked to completion of military service. Members inquired as to the equity of such an arrangement, since Israeli Arabs, for reasons of security, were disadvantaged in this respect. Further information was also requested concerning the requirements for immigration and for access to immigration benefits, especially for non-Jews. In this connection, concern was expressed over Israeli policy that, on the one hand, accorded citizenship automatically to Jewish immigrants arriving in Israel and, on the other hand, barred the return to their former homes of Arabs displaced by war.

370. In regard to article 3, members of the Committee expressed concern that Israel maintained relations with South Africa. Further information was requested on cooperation, particularly on military matters, between the two countries.

371. Concerning article 4, members observed that it was unclear how the law, referred to in paragraph 11 of the report, criminalizing incitement to racism was applied in practice and wished to know how many complaints had been made under that statute. Further information was also requested on the change in the Basic Law, referred to in paragraph 44 of the report, designed to block a person espousing racist ideas from running for elective office. Members also wished to know if Israeli legislation permitted political parties that were ethnically or racially based.

372. In regard to article 5, members of the Committee wished to have further information on multiracial, multi-ethnic or multilinguistic schools, in particular their number, location and how they operated. More detailed demographic information was requested concerning the ethnic composition of Israeli society and that of the occupied territories, including the Golan Heights and East Jerusalem. Precise comparative figures were requested to substantiate the claim in paragraph 21 of the report that the education system in the Arab sector in Israel had expanded dramatically. Further information was also requested on the percentage of Jewish and non-Jewish students and teachers in the educational system, including the university level, and on the average life expectancy for persons living in the occupied territories as compared to that of the population of Israel.

373. Members of the Committee inquired about the employment situation for Arabs working in Israel, and particularly if the number of work permits issued by the Israeli authorities had dropped in the wake of the Gulf War. Further information was requested concerning workers from the occupied territories, including their average wage level compared to Israelis and their right to join a union.

374. The representative of the reporting State had informed the Committee that there were six Arab members of parliament. Members of the Committee wished to know if that number was proportionate to the Arab population and how, in general, the members of parliament of the various ethnic groups compared with their percentage of the total population.

375. With reference to article 5 (d) (i) of the Convention, members of the Committee requested additional information on the application of the right to freedom of movement and residence in Israel and in the areas under its control.

376. Concerning article 6, members of the Committee wished to know how Israel ensured legal recourse for victims of discrimination. Information was also requested on what legal guarantees were in force in the occupied territories concerning the administration of justice. Concern was expressed, in this regard, over the Israeli practice of demolishing houses in the occupied territories. Members of the Committee also wished to know the extent to which Arab lands were seized for the purpose of constructing settlements in the occupied territories for immigrants arriving in Israel.

377. With reference to article 7, members of the Committee wished to be informed as to what measures were being undertaken to promote contacts and exchanges between Israeli Jews and Israeli Arabs and if the number of contacts between the two communities was, in fact, decreasing.

378. Responding to the questions and comments by members of the Committee, the representative of the State party clarified that the report applied to all persons in Israel, including those working in Israel. In the areas under military administration, where Israeli law did not apply, the military administration complied strictly with the rules of international humanitarian law, as applicable to armed conflicts. Israel accepted the fourth Geneva Convention, but claimed the right to do so de facto, not de jure.

379. Concerning education, the Ministry of Education had a special department, headed by an Arab, on education for Arabs. There were no multiracial elementary or high schools in Israel, a fact that resulted from the right of students to attend schools of their own choice. The number of Arab students had risen from 11,000 in 1948 to more than 250,000 at present. There were now about 10,000 Arab teachers in the education system, some 100 of whom taught Jewish students. Class sizes in the Arab schools averaged about 31 students per teacher as compared to 27 students per teacher in the Jewish sector.

380. In regard to the employment situation for Israeli Arabs, the representative noted that, until recently, the unemployment rate among Arabs had been higher than among Jews. Presently, the rate remained between 8 and 9 per cent, whereas the rate for Jews was about 11 per cent.

381. On the subject of parliamentary representation, the representative said that if Arabs were represented in parliament in numbers proportionate to the number of Arab voters, there would be 10 or 11 Arab members of parliament instead of the present 6. Israeli citizens vote for parties, however, rather than individuals, and parties are free to choose whom to include on their lists. There was no specific provision for proportional political representation for Arabs.

382. Private racial organizations were permitted if they were not racist, since the propagation of racism was illegal in Israel. The representative was not aware of any organization based on national or racial membership, except for those established on a purely religious basis. All organizations were multiracial.

383. Regarding Israel's relations with South Africa, the representative stated that Israel had often made its abhorrence of apartheid quite clear and that it had joined in international action against apartheid. The contacts it maintained with South Africa had been for the sake of keeping up cultural ties with organizations combating racial discrimination.

384. On matters concerning immigration policy, prospective nationals had to demonstrate a knowledge of Hebrew and decide to reside permanently in Israel, having given up a foreign nationality. Additionally, all Jews had the right to enter the country, even if they constituted a potential burden because of disablement or unfitness for work. This was due to the historical situation of Jews, many of whom had been persecuted or not permitted to become nationals of other countries.

385. The representative explained that no statistics were provided in the report on the racial composition of the population because none existed. The Government of Israel viewed categorization by racial description as potentially offensive. Statistics based on the country of birth did, however, exist.

Concluding observations

386. The Committee recorded that the Government of Israel had undertaken to continue a dialogue with the Committee. It took note of the declaration made by the representative of the reporting State that Israel had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (although at the time of writing no instrument of ratification had been deposited with the Secretary-General of the United Nations). The Committee regretted that the report did not follow the guidelines on the form and content of reports of States parties and that the demographic data provided was insufficient.

387. The Committee reiterated that the Government of Israel had implemented in the occupied territories neither the Geneva Convention Relative to the Protection of Civilian Persons in Time of War nor the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee expressed great concern about the situation in the occupied territories.

388. The Committee urged the Government of Israel to answer, in its seventh periodic report, all the questions asked and concerns raised during the consideration of its sixth and earlier reports.

Syrian Arab Republic

389. The ninth, tenth and eleventh periodic reports of the Syrian Arab Republic, submitted in one consolidated document (CERD/C/197/Add.6) were considered by the Committee at its 932nd meeting, on 16 August 1991 (see CERD/C/SR.932).

390. The reports were introduced by the representative of the State party, who emphasized that there was no form of racial discrimination in his country and that successive Syrian Constitutions had guaranteed equality before the law of all citizens. Article 207 of the Penal Code provided that any act of racial discrimination or constituting incitement to or encouragement of such

discrimination was punishable by law. Furthermore, all citizens had the right to participate in the country's political, economic, social and cultural life. Similarly, the right to liberty and security of the person as well as freedom of religion and belief were protected under the Constitution.

391. Members of the Committee commended the Government for reporting regularly and maintaining its dialogue with the Committee. It regretted, however, that the report, which was too succinct and too categorical in its assertions, had not provided sufficient information concerning the practical implementation of constitutional or legislative provisions. It was also pointed out that in preparing the country's next periodic report, account should be taken of the consolidated guidelines for the initial part of the reports of States parties (HRI/1991/1).

392. Members of the Committee wished to know whether all five factors mentioned in article 1, paragraph 1, of the Convention, namely, race, colour, descent and national and ethnic origin were covered by Syrian legislation and whether integrationist multiracial organizations and movements were encouraged by the authorities. Further information was also requested on practical arrangements made to implement article 2, paragraph 1 (c), of the Convention.

393. Members of the Committee commended the Syrian Arab Republic on its policy regarding the implementation of article 3 of the Convention.

394. With reference to article 4 of the Convention, members of the Committee wished to know whether article 207 of the Penal Code had ever been invoked before the courts; whether that provision related to both public authorities and private persons; and whether domestic legislation provided for the prohibition mentioned in article 4 (b) of the Convention. Further information was also requested concerning the organization of the judiciary and, in particular, on the competence of special courts during states of emergency.

395. Members of the Committee wished to receive detailed information on the implementation of articles 5 (b) and 5 (d) (ii) (iii) and (ix) of the Convention. It was asked whether there were specific laws governing the exercise of the political, economic, social and cultural rights embodied in the Constitution and whether these rights were available without discrimination. Further information was sought regarding the number of Palestinians living in the Syrian Arab Republic, and it was asked whether they could vote or acquire Syrian nationality and obtain a visa to travel abroad without difficulty. It was further asked whether it was true that Jews were excluded from the armed forces and that they were the only minority whose passports and identity cards mentioned their religion and, if so, how these provisions could be reconciled with article 5 (d) of the Convention.

396. In connection with article 6 of the Convention, members of the Committee wished to know what measures had been taken to inform the general public about remedies available in cases of racial discrimination. Clarification was requested of the claim that no racial discrimination existed in the country and, in that regard, it was pointed out that even in countries with a pattern of non-discrimination, cases of racial discrimination did occur or might occur in the future as a result of changes in social conditions. Further information was also requested regarding the situation of persons of Kurdish ethnic origin.

397. In his reply, the representative of the State party said that all groups covered by article 1, paragraph 1, of the Convention enjoyed the same protection before the law and that no distinction was made in that respect between visitors and residents. Furthermore, all government bodies were required by law to comply with the provisions of the Convention. There were no integrationist multiracial organizations in Syria since there was no racial discrimination in the country.

398. Responding to questions raised in connection with article 4 of the Convention, the representative of the State party explained that article 207 of the Penal Code was applicable by the courts whenever a case involving racial discrimination was brought before them and that no such cases had ever been brought, since all citizens were equal before the law. The state of emergency prevailing in the Syrian Arab Republic since 1948 had not restricted the rights of citizens.

399. Referring to article 5 of the Convention, the representative stated that the political, economic, social and cultural rights listed in that provision were covered and regulated by various laws. Article 28.3 of the Constitution specifically provided for the punishment of any acts of physical or moral torture, and particular attention was attached to the rights of trade unions. In that latter regard, any group of workers in the same occupation could set up its own union. Furthermore, the Syrian Arab Republic had ratified ILO Conventions Nos. 87 and 98. Concerning the specific situation of Palestinians living in the Syrian Arab Republic, he explained that they were refugees who had been expelled from Palestine following violence, torture and terrorism and had left their lands and possessions. Their presence in the country was provisional and, as guests, they naturally did not take part in elections, their Palestinian identity and passports being thus protected. Any Palestinian who wished to travel abroad was able to obtain a special travel document.

400. Responding to other questions relating to article 5, the representative stated that although there was no Jewish community as such in his country, some Syrian citizens were Jews. They were able to practise any profession they chose, could engage in any form of trade and were exempt from military service. Their freedom of movement had not been restricted since 1976 and they benefited from wide educational opportunities. Furthermore, their passports did not refer to their religious belief.

401. In reply to questions raised under article 6 of the Convention, the representative of the State party emphasized that Kurdish Syrians were fully and willingly integrated into Syrian society and were treated without discrimination.

Concluding observations

402. The Committee expressed its appreciation to the Syrian Arab Republic for maintaining its dialogue with the Committee. The Committee welcomed the assurance that certain gaps in the information that had been supplied would be remedied in the twelfth periodic report, which would be more comprehensive in character.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

403. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. Fourteen of the 129 States that have ratified or acceded to the Convention have declared that they recognize the competence of the Committee to receive and consider communications under article 14 of the Convention. These States are Algeria, Costa Rica, Denmark, Ecuador, France, Hungary, Iceland, Italy, the Netherlands, Norway, Peru, Senegal, Sweden, and Uruguay. No communication can be received by the Committee if it concerns a State party to the Convention that has not recognized the competence of the Committee to receive and consider communications. The competence of the Committee to exercise the functions provided for in article 14 became effective on 3 December 1982, pursuant to article 14, paragraph 9.

404. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

405. In carrying out its work under article 14 of the Convention, the Committee may be assisted by a working group of not more than five of its members, which submits recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications (rule 87) or on the action to be taken in respect of communications that have been declared admissible (rule 95, para. 1).

406. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. Subsequently, it considered issues under article 14 at its thirty-first and thirty-second sessions, in 1985, thirty-fourth session, in 1987, thirty-sixth session, in 1988, thirty-seventh session, in 1989, thirty-eighth session, in 1990, and thirty-ninth session, in 1991. At its thirty-sixth session, on 10 August 1988, the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. The Netherlands). 4/

407. Under article 14, paragraph 8, of the Convention, the Committee is to include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon.

408. At its thirty-ninth session, on 18 March 1991, the Committee adopted its opinion on communication No. 2/1989 (Demba Talibe DIOP v. France), which had been declared admissible at the thirty-eighth session. The communication concerned a Senegalese citizen residing in Monaco, who claimed that his rights under article 5(e)(i) of the Convention had been violated by France. He claimed to have been prevented from exercising the legal profession in France, contrary to bilateral agreements between France and Senegal pertaining,

inter alia, to freedom of establishment. The Bar Council of Nice rejected his application for membership in the Bar of Nice and his appeals to the French courts, including the Court of Cassation, were unsuccessful.

409. The State party submitted that the communication was inadmissible as incompatible with the provisions of the Convention pursuant to article 1, paragraph 2, which stipulates that the "Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State party to this Convention between citizens and non-citizens". The rejection of the author's application by the Bar Council of Nice had been based exclusively on his nationality. The State party further argued that the Franco-Senegalese Convention on Establishment of 29 March 1974 could not be construed as encompassing a right to exercise the legal profession.

410. The Committee observed that it was not within its mandate to interpret or monitor the application of bilateral conventions concluded between States parties to the Convention, unless it could be ascertained that the application of these conventions resulted in manifestly discriminatory or arbitrary treatment of individuals under the jurisdiction of States parties to the Convention that have made a declaration under article 14. There was no evidence that the application or non-application of the Franco-Senegalese Conventions of 1974 had resulted in manifest discrimination.

411. As to the alleged violation of article 5 (e) of the Convention, the Committee noted that the rights protected by article 5 (e) are subject to progressive implementation, and that it was not within its mandate to see to it that these rights are established. In as much as the author's claim was based on article 5 (e), the Committee considered it to be ill-founded.

412. Finally, as to the author's claim of racial discrimination within the meaning of article 1, paragraph 1, of the Convention, the Committee observed that the applicable French legislation operated as a distinction or preference within the meaning of article 1, paragraph 2, of the Convention. The Committee, accordingly, found that the facts as submitted did not disclose a violation of any of the provisions of the Convention.

413. The text of the Committee's opinion on communication No. 2/1989 is reproduced in annex VIII to the present report.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

414. The Committee considered this item at its 910th meeting (thirty-ninth session), on 19 March 1991 and at its 924th and 933rd meetings (fortieth session), on 12 and 19 August 1991.

415. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in these Territories.

416. At its 1990 session, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples continued to follow the work of the Committee on the Elimination of Racial Discrimination. The Special Committee also continued to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. 5/

417. As a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its thirty-ninth and fortieth sessions the documents listed in annex IV to the present report.

418. At its thirty-eighth session, the Committee approved the appointment of the members of its three working groups to examine the documentation submitted to it under article 15 of the Convention and to report to the Committee on their findings, as well as on their opinions and recommendations. The working groups consisted of the following members:

(a) Atlantic Ocean and Caribbean Territories, including Gibraltar

Mr. Wolfrum, Mr. Rechetov, Mr. Vidas and Mr. Foighel, with Mr. Yutzis as Convener;

(b) Pacific and Indian Ocean Territories

Mr. Lechuga Hevia, Mr. Garvalov, Mr. Rhenan Segura and Mr. Song, with Mr. Sherifis as Convener;

(c) African Territories

Mr. Ahmadu, Mr. de Gouttes and Mr. Ferrero Costa, with Mr. Lamptey as Convener.

During the thirty-ninth and fortieth sessions, the working groups continued to function as constituted at the thirty-eighth session. The Committee also agreed that Mrs. Sadiq Ali would continue serving as Coordinator of the Conveners of the three working groups.

419. Owing to lack of time, the Committee decided at the thirty-eighth and thirty-ninth sessions to postpone consideration of the information and documentation it had received under article 15 of the Convention.

420. At its fortieth session, the Committee resumed consideration of the documents submitted to it under article 15 of the Convention. The reports of the working groups mentioned above were considered by the Committee at its 924th and 933rd meetings, held on 12 and 19 August 1991.

421. The Committee decided to draw the attention of the General Assembly and the relevant United Nations bodies to the following observations:

A. Atlantic and Caribbean Territories, including Gibraltar

Anguilla

The Committee would like to be informed of the social and cultural impact of tourism on the island's inhabitants.

Bermuda

Since Bermuda has a population that is 61 per cent black, the Committee wishes to be informed of the socio-economic situation in reference to the demographic data.

British Virgin Islands

The Committee takes note of the growth of the economy of the British Virgin Islands and the improvement in its education system.

It is expected that the still existing difficulties for potentially eligible voters will be overcome by making the appropriate amendments to the respective rules.

Cayman Islands

The Committee takes note of the lasting growth of the economy of the Cayman Islands.

Falkland Islands (Malvinas)

The Committee is concerned that there are no legislative instruments concerning human rights.

St. Helena

The General Assembly in its decision 44/428 of 11 December 1989, *inter alia*, noted with concern the trade and transportation dependency of the Territory on South Africa and urged the administering Power to take all the necessary measures not to involve the Territory in any offensive acts by the racist regime of South Africa. The Committee wishes to know what follow-up actions have been taken in this regard. The Committee would also like to know why the principles set out in the Universal Declaration of Human Rights are not embodied in the Constitution of St. Helena.

Montserrat

The Committee wishes to be informed of the outcome of the constitutional problem between the people of Montserrat and the administering power.

Turks and Caicos Islands

The Committee would like to know what is meant by "illegal immigration is vigorously combatted" (A/AC.109/1023, para. 61) and what objectives are pursued by amending the immigration law. The Committee takes note with concern of the substantial increase in crime.

B. Pacific and Indian Ocean Territories

The Committee once again finds itself unable to express any opinion or make any recommendation concerning the Pacific and Indian Ocean Territories due to the total absence of any copies of petitions, as provided in article 15 (a), or any valid information directly related to the principles and objectives of the Convention, as provided in article 15 (b). It reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention, in order to fulfil its functions.

C. African Territories

The Committee takes note of the continuing efforts of the Secretary-General of the United Nations and the Organization of African Unity to promote a just and definitive solution to the question of Western Sahara and, in this connection, expresses the hope that the proposed referendum will be carried out soon, thus allowing the people of Western Sahara to exercise their right to self-determination.

The Committee wishes to be informed of continuing developments on the question of Western Sahara.

422. The Committee also decided to draw the attention of the General Assembly and the relevant United Nations bodies to the following further observations:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a) of the Convention, due to the total absence of any copies of petitions as provided therein. Furthermore, the Committee found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

VI. SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

423. The Committee considered this item at its thirty-ninth (899th, 902nd-904th and 909th-913th meetings) and fortieth sessions (926th-928th, 931st and 932nd meetings).

424. For the consideration of the item, the Committee had before it the following documents:

(a) Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination: report of the Secretary-General (A/45/443);

(b) Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination: note by the Secretary-General (A/45/525);

(c) General Assembly resolution 45/105 of 14 December 1990 entitled "Second Decade to Combat Racism and Racial Discrimination";

(d) General Assembly resolution 45/155 of 18 December 1990 entitled "World Conference on Human Rights";

(e) Commission on Human Rights resolution 1991/30 of 5 March 1991 entitled "World Conference on Human Rights";

(f) Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination: report of the Secretary-General (E/CN.4/1991/43);

(g) Report of the Seminar on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid (E/CN.4/1991/63);

(f) Draft model legislation.

425. Pursuant to a common request by the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Secretary-General arranged a joint meeting of the two bodies on 19 August 1991 (933rd meeting) for the purpose of exchanging views on the prevention of racial discrimination. The agenda of the meeting included a discussion on issues of common interest and of the possibility of a joint contribution to the World Conference on Human Rights of 1993 by the two bodies.

426. In the course of the discussion, members of both bodies emphasized that the joint meeting was an important step towards more effective action by the United Nations against racial discrimination and towards better cooperation and coordination of activities of the two human rights organs, whose activities were complementary although their mandates were different.

427. With regard to the World Conference on Human Rights and the projected Third Decade to Combat Racism and Racial Discrimination, members suggested that a permanent mechanism of consultation be established between the two

bodies. It was also suggested that at future joint meetings general discussions be held about new global trends in racial discrimination, that the exchange of information between the two bodies should be established on a regular basis and that the Committee and the Subcommission should jointly draft recommendations for the 1993 World Conference on Human Rights. In that connection, it was suggested that emphasis should be placed on the improvement of the implementation of standards already adopted and on strengthening of existing international mechanisms for monitoring the implementation of those standards at the national level. Members also suggested that the proposal to create a unique organ that would function on a permanent basis as the body charged with supervising the implementation of internationally recognized human rights standards, should be given further consideration.

428. In reviewing the agenda of the Subcommission in the context of identifying priority issues for joint action by the two bodies in the future, the following items were identified: measures to combat racism and racial discrimination and the role of the Subcommission; adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist regime of South Africa; question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories; report of the Subcommission under Commission on Human Rights resolution 8 (XXIII); discrimination against indigenous peoples; and the protection of minorities.

429. Members of both bodies agreed that the Bureaux of the two bodies would consider the ideas expressed and comments made during the first joint meeting of the Committee and the Subcommission and would make concrete recommendations with respect to further collaboration. It was recommended, as a first step in that direction, that the respective Chairmen would assume responsibility for maintaining working contacts between the Committee and the Subcommission. Mr. Ferrero Costa has been designated to inform members of the Committee about developments in the Subcommission while Mr. Heller has been designated to perform a corresponding task for members of the Subcommission.

430. The Committee discussed its contribution to the work of the World Conference on Human Rights at its 899th, 904th and 911th meetings (thirty-ninth session) and at its 927th and 928th meetings (fortieth session). A number of proposals were advanced by members during the discussion, including the need to put a specific item on racial discrimination on the Conference's agenda and to prepare relevant studies; the possibility that the Committee might contribute a paper evaluating the racial discrimination situation at the national and international levels, and the feasibility of preparing a paper on the effectiveness of recourse procedures and mechanisms, with special reference to the efforts to eliminate racism and racial discrimination.

431. At its 911th meeting, the Committee requested the Rapporteur to prepare a paper for its fortieth session, listing a limited number of possible contributions of the Committee to the Conference, based on proposals made during the thirty-ninth session and taking into consideration the relevant resolutions and recommendations of the General Assembly and the Commission on Human Rights. The paper was considered by the Committee at its fortieth

session at the 927th and 928th meetings. At the 928th meeting, the Committee adopted a set of recommendations for consideration by the Preparatory Committee for the Conference (see chap. VIII below) and designated its Chairman, Mr. Agha Shahi, as the Committee's representative at the first meeting of the Preparatory Committee for the Conference.

432. At its 910th meeting, the Committee took note of the decision of the Commission on Human Rights at its 1991 session to include as a topic for discussion in 1992 under the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination an item entitled "Global survey on the extent of dissemination of the International Convention on the Elimination of All Forms of Racial Discrimination". At its fortieth session, the Committee warmly welcomed the publication of *human Rights Fact Sheet No. 12*, entitled "The Committee on the Elimination of Racial Discrimination". The booklet, published by the Centre for Human Rights, describes the multi-faceted work of the Committee and is intended for wide distribution. The Committee took note that the publication, *The First 20 Years* about the work of CERD was soon to be published by the Centre for Human Rights; it discussed the possibility of producing an abbreviated and less technical version in time for the 1993 World Conference on Human Rights.

433. At its 926th meeting, the Committee considered the draft model legislation against racism and racial discrimination that had been prepared by the Secretary-General. The principal objective of the model legislation was to ensure adequate protection to the victims of racism and racial discrimination through legislative guarantees, criminalization of racist acts, the development of recourse procedures and the establishment of independent national bodies to monitor implementation. Members of the Committee considered that the International Convention on the Elimination of All Forms of Racial Discrimination, rather than national legislation, should serve as the basis for the model legislation, since national laws were often imperfect. Members pointed out that more time was required to examine the draft in all language versions, particularly with a view to considering legal approaches other than those of the penal law, and non-legal measures such as those of education and training. The Committee agreed that the draft model legislation should be revised in the light of members' comments and reconsidered at its forty-first session.

434. The Committee noted that an important focus of the Second Decade was the implementation of the Convention, which had the largest number of States parties of any United Nations human rights treaty, but which was still not universal. In that regard, the Committee adopted, at its 908th meeting, a decision calling on the General Assembly to encourage those States which had not yet done so to become parties to the Convention (see chap. VII below).

435. At its 909th meeting, during its thirty-ninth session, the Committee considered suggestions concerning its future activities, including participation in a possible Third Decade to Combat Racism and Racial Discrimination, and decided to defer further consideration of this item until the fortieth session. At the 928th meeting, during the fortieth session, Mr. Banton, the Rapporteur, presented a paper containing a number of suggestions concerning a possible Third Decade. The paper was welcomed by members of the Committee, and views were exchanged on a number of points raised therein. Particular note was made of the need to produce documentation

for the Decade in a form that would be more accessible to the general public. The Committee requested Mr. Banton to revise his paper, in light of the views expressed during the discussion, for further consideration at the Committee's forty-first session.

436. At its 913th meeting, during its thirty-ninth session, the Committee considered ways in which the Convention and the Committee's work for the elimination of racial discrimination might be better publicized. It was also suggested that more could be done through the United Nations Information Service in Geneva to assist journalists from reporting States in publicizing the Committee's work in those countries by, for example, giving them advance notice of the dates on which reports were to be considered and access to country rapporteurs. During the last week of its fortieth session, a press conference was held which focused on the work of the Committee, particularly its examination of State party reports.

VII. DECISIONS ADOPTED BY THE COMMITTEE AT ITS THIRTY-NINTH AND FORTIETH SESSIONS

A. Thirty-ninth session

1 (XXXIX). Delays in submission of periodic reports by States parties

The Committee on the Elimination of Racial Discrimination,

Drawing attention to article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, under which the States parties to that Convention undertake to submit periodic reports every two years,

Regretting that a number of States are seriously late in the submission of such reports despite many reminders,

Noting that such delays prevent the Committee from considering compliance with the Convention in such States,

Regretting that appeals to States parties have had little effect,

Calls upon the Secretary-General to bring to the attention of the States parties at their meeting the unfortunate consequences of these delays and to encourage the States parties to consider ways by which all States may be brought to fulfil their obligation under article 9, paragraph 1, of the Convention.

909th meeting
19 March 1991

2 (XXXIX). Universalization of the International Convention on the Elimination of All Forms of Racial Discrimination

The Committee on the Elimination of Racial Discrimination,

Emphasizing that discrimination is prohibited under Article 1, paragraph 3, Article 13, paragraph 1 (b), and Article 55 c, of the Charter of the United Nations,

Recalling that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (resolution 1904 (XVIII) of 20 November 1963) was adopted by the General Assembly without dissent,

Recalling also that the International Convention on the Elimination of All Forms of Racial Discrimination was unanimously adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965, *Noting* that 26 years after the adoption of the Convention a number of States have still not acceded to it, thereby preventing attainment of the objectives of universality,

Calls upon the General Assembly to encourage States that have not yet done so to join the overwhelming majority of States in accepting obligations to eliminate racial discrimination, which is one of the stated priorities of the international community in the endeavour to establish respect for and observance of human rights and fundamental freedoms.

908th meeting
18 March 1991

3 (XXXIX). *General Recommendation X concerning technical assistance*

The Committee on the Elimination of Racial Discrimination,

Taking note of the recommendation of the third meeting of persons chairing the human rights treaty bodies, 6/ as endorsed by the General Assembly at its forty-fifth session, to the effect that a series of seminars or workshops should be organized at the national level for the purpose of training those involved in the preparation of State party reports,

Concerned over the continued failure of certain States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to meet their reporting obligations under the Convention,

Believing that training courses and workshops organized on the national level might prove of immeasurable assistance to officials responsible for the preparation of such State party reports,

1. *Requests* the Secretary-General to organize, in consultation with the States parties concerned, appropriate national training courses and workshops for their reporting officials as soon as practicable;

2. *Recommends* that the services of the staff of the Centre for Human Rights as well as of the experts of the Committee on the Elimination of Racial Discrimination should be utilized, as appropriate, in the conduct of such training courses and workshops.

899th meeting
11 March 1991

B. Fortieth session

1 (XL). Sources of information to be used by the Committee

In regard to the use of information from different sources, the Committee will continue to make its suggestions and general recommendations on the basis of the examination of reports and information received from States parties as laid down in article 9, paragraph 2 of the Convention. At the same time, in examining the reports of States parties, members of the Committee must have access, as independent experts, to all other available sources of information, governmental and non-governmental.

925th meeting
13 August 1991

2 (XL). Venue of the Committee's meetings

The Committee on the Elimination of Racial Discrimination,

Aware of the decision of the States parties about the venue of its meetings,

Recalling that according to article 10, paragraph 4, of the International Convention on the Elimination of All Forms of Racial Discrimination, the meetings of the Committee shall normally be held at United Nations Headquarters,

1. *Draws attention* to the Committee's experience, particularly at its fortieth session when many States were unable to arrange representation during consideration of their reports by the Committee;

2. *Observes* that meetings in New York should improve the supply of information that competent bodies of the United Nations have to furnish the Committee in terms of article 15, paragraph 2 (b);

3. *Recommends* that its March meeting should be held at United Nations Headquarters.

935th meeting
20 August 1991

VIII. PRELIMINARY COMMENTS AND RECOMMENDATIONS BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION TO THE PREPARATORY COMMITTEE FOR THE WORLD CONFERENCE ON HUMAN RIGHTS

The Committee on the Elimination of Racial Discrimination,

Pursuant to paragraph 9 of General Assembly resolution 45/155 of 18 December 1990 and paragraph 5 of Commission on Human Rights resolution 1991/30 of 5 March 1991,

1. *Decides* to request Mr. Agha Shahi, its Chairman, to represent it at the first meeting of the Preparatory Committee for the World Conference on Human Rights;

2. *Recommends* that improving the implementation of existing human rights standards and instruments should be a major focus of the preparatory process and that consideration should be given, in that context, to the following:

(a) Assessment of the reporting system and means for its improvement based on CERD's experience;

(b) CERD's experience in respect of the petition (article 14) and the State complaint (article 11) procedures of the Convention as means for responding to alleged violations of the prohibition of racial discrimination;

(c) CERD'S experience regarding the indivisibility of human rights and the conflict between the prohibition of racial discrimination and other human rights;

(d) Participation of national human rights bodies in the reporting process;

(e) Ways to attain universality of accession to the International Convention on the Elimination of All Forms of Racial Discrimination;

(f) Coordination of implementation at federal, state/provincial and local levels in complex political systems;

3. *Further recommends* that studies on the following be prepared for submission as background material to the World Conference:

(a) Progress in combating racial discrimination since 1948, and the contribution of CERD;

(b) The contribution of social research to the implementation of human rights standards.

928th meeting
14 August 1991

Notes

1/ See *Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Thirteenth Meeting of States Parties, Decisions* (CERD/SP/39).

2/ *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

3/ Ibid., *Twenty-fifth Session, Supplement No. 27* (A/8027), annex III, sect. A.

4/ Reproduced in annex IV to the 1988 report of the Committee on the Elimination of Racial Discrimination (see *Official Records of the General Assembly, Forty-third Session, Supplement No. 18* (A/43/18)).

5/ See A/45/23 (Part I), paras. 92 and 104.

6/ See A/45/636, annex.

ANNEX I

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (129), as at 23 August 1991

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983 a/	5 August 1983
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988 b/	25 October 1988 b/
Argentina	2 October 1968	4 January 1969
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975 b/	5 August 1975 b/
Bahrain	27 March 1990 a/	26 April 1990
Bangladesh	11 June 1979 a/	11 July 1979
Barbados	8 November 1972 a/	8 December 1972
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Botswana	20 February 1974 a/	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974 a/	17 August 1974
Burundi	27 October 1977	26 November 1977
Byelorussian Soviet Socialist Republic	8 April 1969	8 May 1969
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979 a/	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977 a/	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981 a/	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988 a/	10 August 1988

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973 a/	3 February 1973
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czechoslovakia	29 December 1966	4 January 1969
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983 a/	24 June 1983
Ecuador	22 September 1966 a/	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979 a/	30 December 1979
Ethiopia	23 June 1976 a/	23 July 1976
Fiji	11 January 1973 b/	11 January 1973 b/
Finland	14 July 1970	13 August 1970
France	28 July 1971 a/	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978 a/	28 January 1979
Germany c/	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974 a/	29 June 1974

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Kuwait	15 October 1968 a/	4 January 1969
Lao People's Democratic Republic	22 February 1974 a/	24 March 1974
Lebanon	12 November 1971 a/	12 December 1971
Lesotho	4 November 1971 a/	4 December 1971
Liberia	5 November 1976 a/	5 December 1976
Libyan Arab Jamahiriya	3 July 1968 a/	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Maldives	24 April 1984 a/	24 May 1984
Mali	16 July 1974 a/	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972 a/	29 June 1972
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983 a/	18 May 1983
Namibia	11 November 1982 a/	11 December 1982
Nepal	30 January 1971 a/	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978 a/	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 a/	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982 a/	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982 a/	23 September 1982

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Qatar	22 July 1976 a/	21 August 1976
Republic of Korea	5 December 1978 a/	4 January 1979
Romania	15 September 1970 a/	15 October 1970
Rwanda	16 April 1975 a/	16 May 1975
Saint Lucia	14 February 1990 b/	14 February 1990 b/
Saint Vincent and the Grenadines	9 November 1981 a/	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978 a/	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Solomon Islands	17 March 1982 b/	17 March 1982 b/
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968 a/	4 January 1969
Sri Lanka	18 February 1982 a/	20 March 1982
Sudan	21 March 1977 a/	20 April 1977
Suriname	15 March 1984 b/	15 March 1984 b/
Swaziland	7 April 1969 a/	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969 a/	21 May 1969
Togo	1 September 1972 a/	1 October 1972
Tonga	16 February 1972 a/	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Uganda	21 November 1980 a/	21 December 1980
Ukrainian Soviet Socialist Republic	7 March 1969	6 April 1969
Union of Soviet Socialist Republics	4 February 1969	6 March 1969
United Arab Emirates	20 June 1974 a/	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972 a/	26 November 1972
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Viet Nam	9 June 1982 a/	9 July 1982
Yemen d/		
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976 a/	21 May 1976
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991 a/	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Costa Rica	8 January 1974	8 January 1974
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Senegal	3 December 1982	3 December 1982
Sweden	6 December 1971	5 January 1972
Uruguay	11 September 1972	11 September 1972

Notes

a/ Accession.

b/ Date of receipt of notification of succession.

Notes (continued)

c/ Through the accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation "Germany". The former German Democratic Republic had acceded to the Convention on 27 March 1973.

d/ On 22 May 1990 the People's Democratic Republic of Yemen and the Yemen Arab Republic merged to form a single sovereign State called the Republic of Yemen, with Sana'a as its capital. The People's Democratic Republic of Yemen had acceded to the Convention on 18 October 1972. The Yemen Arab Republic had acceded to the Convention on 6 April 1989.

ANNEX II

Agenda of the thirty-ninth and fortieth sessions

A. Thirty-ninth session

1. Adoption of the agenda.

2. Action by the General Assembly at its forty-fifth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 45/85).

3. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Consideration of communications under article 14 of the Convention.

6. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

7. Second Decade to Combat Racism and Racial Discrimination.

B. Fortieth session

1. Adoption of the agenda.

2. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

3. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

4. Consideration of communications under article 14 of the Convention.

5. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

6. Second Decade to Combat Racism and Racial Discrimination.

7. Report of the Committee to the General Assembly at its forty-sixth session under article 9, paragraph 2, of the Convention.

ANNEX III

Consideration by the Committee of reports submitted by States parties under article 9 of the Convention

At the thirty-ninth and fortieth sessions of the Committee, the following members acted as country rapporteurs in connection with the reports considered in 1991.

Country rapporteur	Reports considered by the Committee
Mr. Banton	Syrian Arab Republic Ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/197/Add.6)
	Zaire Second periodic report (CERD/C/46/Add.4)
	Portugal Third and fourth periodic reports, submitted in one document (CERD/C/179/Add.2)
Mr. Rhenan Segura	Cuba Ninth periodic report (CERD/C/184/Add.3)
Mrs. Sadiq Ali	Barbados Seventh periodic report (CERD/C/131/Add.13)
	Burundi Sixth periodic report (CERD/C/168/Add.1)
	Uganda Initial report (CERD/C/71/Add.2)
	Bahamas Third and fourth periodic reports, submitted in one document (CERD/C/88/Add.2)
Mr. Wolfrum	Uruguay Eighth, ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/197/Add.3)
	Sweden Tenth periodic report (CERD/C/209/Add.1)

Country rapporteur	Reports considered by the Committee
	United Kingdom Tenth periodic report (CERD/C/172/Add.11 and Add.16), and eleventh periodic report (CERD/C/197/Add.2)
	Australia Sixth periodic report (CERD/C/146/Add.3) Seventh and eighth periodic reports, submitted in one document (CERD/C/194/Add.2)
	Fiji Fifth periodic report (CERD/C/89/Add.3)
	Lebanon Second, third, fourth and fifth periodic reports, submitted in one document (CERD/C/65/Add.4)
	Iraq Ninth periodic report (CERD/C/159/Add.2) and tenth periodic report (CERD/C/185/Add.2)
	Togo Initial, second, third, fourth and fifth periodic reports, submitted in one document (CERD/C/75/Add.12)
Mr. Yutzis	Canada Ninth periodic report (CERD/C/159/Add.3) and tenth periodic report (CERD/C/185/Add.3)
	Ukrainian Soviet Socialist Republic Tenth periodic report (CERD/C/172/Add.14)
	Israel Fifth and sixth periodic reports, submitted in one document (CERD/C/192/Add.2)
	Gabon Initial report (CERD/C/71/Add.1)

Country rapporteur	Reports considered by the Committee
Mr. de Gouttes	Argentina Tenth periodic report (CERD/C/172/Add.18)
	Bulgaria Ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/197/Add.4)
	Côte d'Ivoire Second, third and fourth periodic reports, submitted in one document (CERD/C/64/Add.2)
	Mexico Seventh and eighth periodic reports, submitted in one document (CERD/C/194/Add.1)
Mr. Vidas	Malta Eighth and ninth periodic reports, submitted in one document (CERD/C/171/Add.2)
	Swaziland Third periodic report (CERD/C/R.70/Add.18)
Mr. Lamptey	Gambia Initial report (CERD/C/61/Add.3)
	Guinea Initial report (CERD/C/15/Add.1)
	Sierra Leone Third periodic report (CERD/C/R.70/Add.22)

ANNEX IV

Documents received by the Committee on the Elimination of Racial Discrimination at its thirty-ninth and fortieth sessions, pursuant to decisions of the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in conformity with article 15 of the Convention

The following is a list of the working papers submitted by the Special Committee:

African Territories	Documents
Western Sahara	A/AC.109/999/Rev.1 and A/AC.109/1048 and Corr.1 and Corr.1/Rev.1
Atlantic Ocean and Caribbean Territories, including Gibraltar	
Anguilla	A/AC.109/1026, A/AC.109/1035 and A/AC.109/1058
Bermuda	A/AC.109/1025, A/AC.109/1027, A/AC.109/1028, A/AC.109/1063 and A/AC.109/1065
British Virgin Islands	A/AC.109/1021 and A/AC.109/1060
Cayman Islands	A/AC.109/1019, A/AC.109/1020 and A/AC.109/1056
Falkland Islands (Malvinas)	A/AC.109/1004 and A/AC.109/1042 and Corr.1
Gibraltar	A/AC.109/1007 and Corr.1 and A/AC.109/1044
Saint Helena	A/AC.109/1016 and Corr.1
Montserrat	A/AC.109/1031, A/AC.109/1032 and A/AC.109/1061
Turks and Caicos Islands	A/AC.109/1023 and Corr.1 and Add.1, A/AC.109/1024 and A/AC.109/1059
United States Virgin Islands	A/AC.109/1029, A/AC.109/1030, A/AC.109/1034, A/AC.109/1064 and A/AC.109/1066

Pacific and Indian Ocean Territories	Documents
American Samoa	A/AC.109/1033 and A/AC.109/1068
East Timor	A/AC.109/1001 and A/AC.109/1037 and Add.1
Guam	A/AC.109/1017, A/AC.109/1018, A/AC.109/1069 and A/AC.109/1070
New Caledonia	A/AC.109/1000 and A/AC.109/1041 and Corr.1
Pitcairn	A/AC.109/1015 and Corr.1 and A/AC.109/1057
Tokelau	A/AC.109/1036 and A/AC.109/1067
Trust Territories of the Pacific Islands	A/AC.109/1062

ANNEX V

List of documents issued for the thirty-ninth and fortieth sessions of the Committee

Thirty-ninth session

CERD/C/118/Add.38	Eighth periodic report of Uruguay
CERD/C/149/Add.31	Ninth periodic report of Uruguay
CERD/C/172/Add.19	Tenth periodic report of Uruguay
CERD/C/197/Add.2	Eleventh periodic report of the United Kingdom
CERD/C/197/Add.3	Eleventh periodic report of Uruguay
CERD/C/201	Initial reports of States parties due in 1991
CERD/C/202	Second periodic reports of States parties due in 1991
CERD/C/203	Fourth periodic reports of States parties due in 1991
CERD/C/204	Fifth periodic reports of States parties due in 1991
CERD/C/205	Sixth periodic reports of States parties due in 1991
CERD/C/206	Seventh periodic reports of States parties due in 1991
CERD/C/207	Eighth periodic reports of States parties due in 1991
CERD/C/208	Ninth periodic reports of States parties due in 1991
CERD/C/209	Tenth periodic reports of States parties due in 1991
CERD/C/209/Add.1	Tenth periodic report of Sweden
CERD/C/210	Eleventh periodic reports of States parties due in 1991
CERD/C/211	Provisional agenda and annotations of the thirty-ninth session of the Committee on the Elimination of Racial Discrimination

Thirty-ninth session

CERD/C/212	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/213	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/SR.889-913	Summary records of the thirty-ninth session of the Committee

Fortieth session

CERD/C/132/Add.6	Eighth periodic report of Greece
CERD/C/149/Add.32	Ninth periodic report of Bulgaria
CERD/C/149/Add.33	Ninth periodic report of the Syrian Arab Republic
CERD/C/159/Add.5	Ninth periodic report of Greece
CERD/C/167/Add.2	Fifth periodic report of Israel
CERD/C/169/Add.2	Seventh periodic report of Mexico
CERD/C/169/Add.3	Seventh periodic report of Australia
CERD/C/172/Add.20	Tenth periodic report of Bulgaria
CERD/C/172/Add.21	Tenth periodic report of the Syrian Arab Republic
CERD/C/172/Add.22	Tenth periodic report of Ghana
CERD/C/172/Add.23	Tenth periodic report of Costa Rica
CERD/C/185/Add.4	Tenth periodic report of Greece
CERD/C/192/Add.2	Sixth periodic report of Israel
CERD/C/194/Add.1	Eighth periodic report of Mexico
CERD/C/194/Add.2	Eighth periodic report of Australia
CERD/C/197/Add.4	Eleventh periodic report of Bulgaria

Fortieth session

CERD/C/197/Add.5	Eleventh periodic report of the Ukrainian Soviet Socialist Republic
CERD/C/197/Add.6	Eleventh periodic report of the Syrian Arab Republic
CERD/C/197/Add.7	Eleventh periodic report of Ghana
CERD/C/197/Add.8	Eleventh periodic report of Costa Rica
CERD/C/197/Add.9	Eleventh periodic report of Ecuador
CERD/C/210/Add.1	Eleventh periodic report of Greece
CERD/C/214	Provisional agenda and annotations of the fortieth session of the Committee on the Elimination of Racial Discrimination
CERD/C/215	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/216	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/SR.914-937	Summary records of the fortieth session of the Committee

ANNEX VI

Letter addressed by the Chairman of the Committee on the Elimination of Racial Discrimination to the Ministers for Foreign Affairs of the Bahamas, Belgium, Côte d'Ivoire, Gabon, the Gambia, Guinea, Fiji, Lebanon, Sierra Leone, Swaziland, Togo, Uganda and Zaire

25 March 1991

Sir,

On behalf of the Committee on the Elimination of Racial Discrimination, I have the honour to refer to the International Convention on the Elimination of All Forms of Racial Discrimination, ratified or acceded to by your country on ..., which requires periodic reports to be submitted every two years (art. 9, para. 1) on the legislative, judicial, administrative or other measures adopted by the States parties to give effect to the provisions of the Convention. The last report of your country was submitted on ... , and discussed at the ... meeting of the Committee on the Elimination of Racial Discrimination, in ...

Delays in reporting by States Parties hamper the Committee in monitoring implementation of the Convention. For this reason, the Committee, at its 909th meeting, on 19 March 1991, decided to review implementation of the Convention in your country based upon your last reports and the consideration of them by the Committee. This review will be conducted in accordance with article 9, paragraphs 1 and 2, of the Convention and will form part of the Committee's fortieth session scheduled from 5 to 23 August 1991, at the United Nations Office at Geneva. The review will take place at a meeting to be held on .. August 1991.

The Committee invites your Excellency's Government to designate its representative(s) to participate in the above-mentioned meeting and to furnish the Committee with subsequent relevant information. Such information may be submitted in writing to the Secretary-General, c/o the Centre for Human Rights, United Nations Office at Geneva, if possible by 30 June 1991.

Accept, Sir, the assurances of my highest consideration.

(_Signed_) Agha SHAHI
Chairman
Committee on the Elimination
of Racial Discrimination

ANNEX VII

Letter addressed by the Chairman of the Committee to the Ministers for Foreign Affairs of the Bahamas, Gabon, the Gambia, Guinea, Fiji, Lebanon, Sierra Leone, Swaziland, Togo, Uganda and Zaire

23 August 1991

Sir,

Further to my letter dated 25 March 1991, I have the honour to inform Your Excellency, on behalf of the Committee on the Elimination of Racial Discrimination, that at its fortieth session (5-23 August 1991), the Committee reviewed the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in your country based upon the latest report available and the record of the consideration of that report by the Committee.

With a view to facilitating the preparation of reports that are due for submission to the Committee, the relevant parts of the Committee's report to the United Nations General Assembly at its forty-sixth session and of the summary records of the Committee's consideration of your Government's report are attached herewith. They contain a detailed account of the Committee's deliberations and reflect both the concerns expressed by the members of the Committee in connection with consideration of your Government's report and the Committee's concluding observations.

I would like also to inform Your Excellency, that the Committee, while considering your country's report, reiterated its serious concern over the delays by some of the States parties in complying with their reporting obligations, which hampered the Committee in its efforts to monitor the implementation of the Convention, and noted with regret that no relevant additional information or report had been provided to it by your Government since 19.. and that no State party representative was present when the Committee carried out the above-mentioned review. The Committee expressed the hope that overdue reports would be submitted without further delay and that a representative of Your Excellency's Government would be present when they were considered by the Committee. The Committee also wished to note that States parties requiring assistance in preparing their reports could avail themselves of technical assistance and advisory services from the United Nations Centre for Human Rights.

Please accept, Your Excellency, the assurance of my highest consideration.

(*Signed*) Agha SHAHI
Chairman
Committee on the Elimination
of Racial Discrimination

ANNEX VIII

Opinion of the Committee on the Elimination of Racial Discrimination

Communication No. 2/1989, Demba Talibe Diop v. France

(Opinion adopted on 18 March 1991 at the thirty-ninth session)

Submitted by:	G. A. C. Enkelaar (counsel)
On behalf of:	Demba Talibe Diop (petitioner)
State party concerned:	France
Date of communication:	15 March 1989 (date of initial letter)
Date of decision on admissibility:	22 August 1990

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 18 March 1991,

Having concluded its consideration of communication No. 2/1989, submitted to the Committee by G. A. C. Enkelaar on behalf of D. T. Diop under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it on behalf of Mr. Diop and by the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

OPINION

1. The author of the communication (initial submission dated 15 March 1989 and subsequent correspondence) is Demba Talibe DIOP, a Senegalese citizen born in 1950, currently residing in Monaco. He claims to be the victim of a violation by France of article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination. He is represented by counsel, who has provided a copy of his power of attorney.

The facts as submitted

2.1 The author, who is married to a French citizen and has one child, has been domiciled in Monaco since December 1985. From July 1982 to December 1985, he practiced law in Dakar. On 30 January 1986, the author formally applied for membership in the Bar of Nice, submitting all the documentary evidence required. On 5 May 1986, the Bar Council of Nice rejected his application; on 8 May 1986, the competent authorities in Nice delivered his resident's permit (visa d'établissement). On 30 May 1986, Mr. Diop appealed the decision of the Bar Council to the Court of Appeal of Aix-en-Provence. By judgment of 27 October 1986, the Court of Appeal dismissed the appeal; a subsequent appeal to the Court of Cassation was dismissed on 4 October 1988.

2.2 The decision of the Bar Council of Nice was based on the fact that Mr. Diop did not hold the Certificate of Aptitude for the Exercise of the Legal Profession (CAPA), as required by article 11 of Act No. 71.1130 of 31 December 1971; the Court of Appeal upheld the decision on the same grounds. The Court of Cassation, however, found that the Court of Appeal had erroneously interpreted the text on waiver of the CAPA requirement, and that it had "substituted purely juridical considerations for those that were justifiably criticized in the first of the grounds of appeal". The Court of Cassation found that the author met all the statutory requirements for the exercise of the lawyers' profession except one: the French nationality. The author points out that the Bar Council of Nice had not referred to his Senegalese nationality as an obstacle to his exercising the legal profession in France.

2.3 Article 11, paragraph 1, of Act No. 71.1130 of 31 December 1971 stipulates that "no one may enter the legal profession if he is not French, except as provided for in international Conventions". The author argues that his case falls within the scope of application of the Franco-Senegalese Convention on Establishment (Convention d'établissement franco-sénégalaise) of 29 March 1974, article 1 of which prohibits discrimination between French and Senegalese citizens in the enjoyment of civil liberties to which they are entitled on the same terms (including the right to work, set forth in the preamble of the French Constitution of 4 October 1958). In the light of this provision, according to the author, the Court of Cassation should not have considered Senegalese citizenship as an impediment to the exercise of the legal profession in France. He further indicates that the legal profession does not fall within the occupational categories to which the restrictions of article 5 of the Convention apply, and no other Convention provision expressly prohibits the free exercise of the legal profession.

2.4 Article 9 of the Franco-Senegalese Convention on Movement of Persons (Convention franco-sénégalaise relative à la circulation des personnes) of 29 March 1974 stipulates that "French nationals wishing to establish themselves in Senegal and Senegalese nationals wishing to establish themselves in France for the purpose of engaging in self-employed activities, or without engaging in any gainful occupation, must ... produce the required evidence of the means of subsistence available to them" (emphasis added). The author states that the legal profession is considered in France to be the epitome of self-employed activity; this is confirmed by article 7, paragraph 1, of Act No. 71.1130.

2.5 Article 23 of the Franco-Senegalese Tax Convention (Convention fiscale franco-sénégalaise) of 29 March 1974 provides that "[T]he income that a person domiciled in a Contracting State draws from a liberal profession or similar independent activity shall be subject to tax in that State alone, unless that person is regularly possessed of a fixed base for the exercise of his profession in the other Contracting State ... For the purposes of the present article, scientific, artistic, literary, educational and pedagogical activities, inter alia, as well as the activities of doctors, advocates, architects and engineers, are considered liberal professions" (emphasis added).

2.6 The author further notes that, on 12 February 1990, he requested that his name be added to the list of legal counsel (conseils juridiques), as French nationality is no prerequisite for the practice as legal counsel. By letter dated 24 April 1990, he was informed that his inscription was imminent. On 26 June 1990, however, he was told that his request could not be complied with, as he had not demonstrated that he had fulfilled the requirement of a three-year apprenticeship (stage); the author affirms that his application had been complete and included, in particular, proof of such an apprenticeship.

The complaint

3.1 The author considers that he was denied the right to work on the ground of national origin, and alleges that the French judicial authorities violated the principle of equality, enshrined in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination. Allegedly, his right to equal treatment before the tribunals was violated in two respects: First, whereas he was denied to practice law in Nice, six lawyers of Senegalese nationality are members of the Paris Bar. According to the author, his application would have been granted had he submitted it in Paris; he considers it unacceptable that the State party should allow such differences within the national territory. Secondly, it is submitted that the principle of equality and reciprocity at the international level is also affected by virtue of the fact that on the basis of the above-mentioned bilateral instruments, all French lawyers have the right to exercise their profession in Senegal and vice versa.

3.2 Distinctions, exclusions, restrictions or preferences established in the application of the International Convention on the Elimination of All Forms of Racial Discrimination must be spelled out in legislative provisions which, the author claims, do not exist in his case. Such distinctions would contravene article 34 of the French Constitution. Furthermore, even if there were pertinent domestic legislation, the bilateral Franco-Senegalese Conventions of 29 March 1974 prevail over domestic legislation and authorize French and Senegalese citizens to exercise a liberal profession, including the legal one, on the territory of the State of which they do not have the citizenship.

3.3 The author claims that existing Senegalese legislation (Law on the Exercise of the Legal Profession of 1984) does not prohibit legal practice by French citizens in Senegal. In this context, he notes that on 8 January 1985, Ms. Geneviève Lenoble, a French citizen and member of the Paris Bar, was admitted to the Bar of Senegal; so was, on 7 January 1987, another French citizen, Ms. Dominique Picard. On the other hand, the Governing Body of the Bar Council of Nice required, for Mr. Diop's inscription on the roll, the Certificate of Aptitude for the Exercise of the Legal Profession (CAPA), although article 44 of the decree of 9 June 1972, concerning the application of article 11, paragraph 3, of the Law of 31 December 1971 stipulates that this Certificate is not necessary for individuals who already are qualified to practice law in a country with which France concluded an agreement of judicial cooperation.

3.4 It is submitted that the State party violated the author's right to a family life because, in the light of the impossibility to practice law in Nice, the author was forced to temporarily leave his home and take up residence and practice law in Dakar, so as to be able to provide for his family.

3.5 The author claims that the decision of the Bar Council of Nice of 5 May 1986, confirmed by the Court of Appeal on 27 October 1986, is irreconcilable with the judgment of the Court of Cassation of 4 October 1988. The Court of Cassation did not annul the decision of the Bar Council as contrary to the law in criticizing its motivation; it simply substituted its own motives in dismissing the appeal. In the author's opinion, the irreconcilability of the judicial decisions in the case is equivalent, in law, to a refusal to adjudicate his request for admission to the bar altogether, thus denying him an effective remedy before domestic courts. In this way, it is submitted, he was denied the exercise of a fundamental public freedom, that is, his right to work in France.

The State party's observations

4.1 The State party contends that the author has failed to raise, before the domestic courts, the issue of discriminatory treatment of which he claims to have been the victim; accordingly, his communication should be declared inadmissible because of non-exhaustion of domestic remedies, under article 14, paragraph 7 (a), of the Convention.

4.2 The State party further observes that the communication is inadmissible as incompatible with the provisions of the Convention in accordance with article 1, paragraph 2, which stipulates that the "Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State party to this Convention between citizens and non-citizens". In Mr. Diop's case, the rejection of his application by the Bar Council of Nice was exclusively based on his nationality, not because he was Senegalese but because he was not French within the meaning of article 1, paragraph 2. The State party adds that the ratio legis of article 11, paragraph 1, of Act No. 71.1130 of 31 December 1971 is to protect French lawyers from foreign competition. In so doing, France exercises her sovereign prerogatives expressly recognized by article 1, paragraph 2, of the Convention.

4.3 With respect to the contention that the author meets all the requirements for the exercise of the legal profession in France, the State party claims that, for the Court of Cassation, the fact that the author was not of French nationality was in itself sufficient to dismiss the appeal, thus making it superfluous to consider whether other conditions for the exercise of the legal profession in France had or had not been met. The State party endorses the interpretation of article 1 of the Franco-Senegalese Convention on Establishment by the Court of Cassation, according to which this provision merely concerns the enjoyment of civil liberties and cannot be construed as encompassing a right to exercise the legal profession. For the State party, the author's argument that the right to work is a civil liberty and that, since the legal profession is gainful occupation, it is a civil liberty, is a mere "sophism" and must be rejected.

4.4 The State party further explains the organization and the functions of the system of Bar Councils attached to each regional court (Tribunal de Grande Instance). These Bar Councils are administered by a Governing Board (Conseil de l'Ordre), enjoy legal personality and operate independently of one another. It is the duty of the Governing Board of each Bar Council to decide on applications for admission to the bar; decisions on such matters by the Board may only be appealed by the applicant and the Public Prosecutor (Procureur General) of the competent Court of Appeal, within two months of the notification of the decision. The State party adds that each Governing Body decides independently on applications for admission to the bar and may, in the process, err in its interpretation of applicable legal provisions.

4.5 In as much as the admission of six Senegalese lawyers to the Bar of Paris is concerned, the State party submits that the governing Body of the Bar of Paris erroneously interpreted applicable regulations by admitting these Senegalese citizens. The State party affirms that this situation does not create any rights for the author, nor a legal basis on which the inscription of every Senegalese lawyer on the Bar Roll could be justified, as any such act would violate the applicable rules and regulations. Furthermore, these lawyers were admitted prior to the Court of Cassation's judgment in the author's case; if this jurisprudence were to be invoked before the ordinary tribunals, it is likely, according to the State party, that these lawyers would have to be stripped of membership.

4.6 With respect to the treatment of French lawyers by the Senegalese judicial authorities, the State party explains that article 16 of a Senegalese Law on the Exercise of the Legal Profession of 1984 stipulates that no one may be admitted to the Bar in Senegal if he is not Senegalese or the citizen of a State that grants reciprocity. In application of this provision, the Bar Council of Dakar rejected, on 14 March 1988, the application of a French lawyer admitted to the Bar of Senegal on a probationary basis in 1984. The decision of the Bar Council of Dakar was based on the fact that the applicant was not Senegalese and that no international Convention or other applicable provision provided for reciprocity in the matter. The Court of Appeal of Dakar confirmed this decision by judgment of 15 April 1989. During the appeal proceedings, it was submitted on behalf of the Bar Council that the Franco-Senegalese Convention on Establishment of 1974 did not provide for reciprocity with respect to liberal professions. In his pleadings, the Public Prosecutor, who had himself participated in the elaboration of the 1974 Convention, contended that the omission of liberal professions had been deliberate; the State party notes that one of the Convention's aims purportedly was to forestall the admission of French lawyers to the Bar of Senegal. The State party concludes that Mr. Diop's situation in France is similar to that of French lawyers wishing to practice in Senegal and that, accordingly, the principle of equality of treatment and of reciprocity invoked by him may be applied to his disadvantage.

Issues and proceedings before the Committee

5.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, determine whether or not it is admissible under the International Convention on the Elimination of All Forms of Racial Discrimination.

5.2 The Committee took note of the State party's observation that the communication was inadmissible on the ground of non-exhaustion of domestic remedies, since the author had not invoked discriminatory treatment based on national origin before the domestic courts. The Committee noted, however, that on the basis of the information before it, the issue of the author's national origin was first addressed by the court of last instance, the Court of Cassation, in its decision of 4 October 1988. Furthermore, the State party had not indicated the availability of any other remedies to the author. In the circumstances, the Committee concluded that the requirements of article 14, paragraph 7 (a), of the Convention and of rule 91 (e) of the Committee's rules of procedure, had been met.

5.3 In respect of the State party's observation "that the communication should be declared inadmissible as not falling within the scope of the Convention in the light of article 1, paragraph 2", the Committee observed that the question of the application of this article was one of substance which should be examined at a later stage, in conformity with rule 95 of the rules of procedure. The Committee further observed that rule 91 (c) of the rules of procedure enjoined it to ascertain whether any communication is compatible with the provisions of the Convention, and that "compatibility" within the meaning of rule 91 (c) must be understood in procedural, not substantive, terms. In the Committee's opinion, the communication did not suffer from procedural incompatibility.

5.4 On 22 August 1990, therefore, the Committee on the Elimination of Racial Discrimination declared the communication admissible.

6.1 The Committee on the Elimination of Racial Discrimination has examined the present communication in the light of all the information made available by the parties, as provided for in rule 95, paragraph 1, of its rules of procedure.

6.2 The Committee has noted the author's claims (a) that he was discriminated against on one of the grounds defined in article 1, paragraph 1, of the Convention on the Elimination of All Forms of Racial Discrimination, (b) that the rejection of his application for admission to the Bar of Nice constituted a violation of his right to work (art. 5 (e) of the Convention) and his right to a family life, and (c) that the rejection of his application violated the Franco-Senegalese Convention on Movement of Persons. After careful examination of the material placed before it, the Committee bases its decision on the following considerations.

6.3 In respect of the alleged violations of the Franco-Senegalese Convention on Freedom of Movement of 29 March 1974, the Committee observes that it is not within its mandate to interpret or monitor the application of bilateral conventions concluded between States parties to the Convention, unless it can be ascertained that the application of these conventions result in manifestly discriminatory or arbitrary treatment of individuals under the jurisdiction of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which have made the declaration under article 14. The Committee has no evidence that the application or non-application of the Franco-Senegalese Conventions of March 1974 has resulted in manifest discrimination.

6.4 As to the alleged violation of article 5 (e) of the Convention and of the right to a family life, the Committee notes that the rights protected by article 5 (e) are of programmatic character, subject to progressive implementation. It is not within the Committee's mandate to see to it that these rights are established; rather, it is the Committee's task to monitor the implementation of these rights, once they have been granted on equal terms. In so far as the author's complaint is based on article 5 (e) of the Convention, the Committee considers it to be ill-founded.

6.5 Finally, in as much as the allegation of racial discrimination within the meaning of article 1, paragraph 1, of the Convention is concerned, the Committee notes that article 11, paragraph 1, of French Act No. 71.1130 of 31 December 1971 stipulates that no one may accede to the legal profession if he is not French, except as provided for in international conventions.

6.6 This provision operates as a preference or distinction between citizens and non-citizens within the meaning of article 1, paragraph 2, of the Convention: the refusal to admit Mr. Diop to the Bar was based on the fact that he was not of French nationality, not on any of the grounds enumerated in article 1, paragraph 1. The author's allegation relates to a situation in which the right to practice law exists only for French nationals, not to a situation in which this right has been granted in principle and may be generally invoked; accordingly, the Committee concludes that article 1, paragraph 1, has not been violated.

7. The Committee on the Elimination of Racial Discrimination, acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, is of the opinion that the facts as submitted do not disclose a violation of any of the provisions of the Convention.

ANNEX IX

Country rapporteurs appointed for the forty-first session of the Committee (1992)

Country	Rapporteur
Somalia	Mr. Mahmoud Aboul-Nasr
Cape Verde	Mr. George O. Lamptey
Lesotho	Mr. Hamzat Ahmadu
Saint Vincent and the Grenadines	Mr. Michael Parker Banton
El Salvador	Mr. Rüdiger Wolfrum
Papua New Guinea	Mr. Rüdiger Wolfrum
Zambia	Mr. George O. Lamptey
Solomon Islands	Mr. Carlos Lechuga Hevia
Botswana	Mr. Michael Parker Banton
Lao People's Democratic Republic	Mr. Régis de Gouttes
Viet Nam	Mr. Régis de Gouttes
Greece	Mr. Rüdiger Wolfrum
Burkina Faso	Mr. Hamzat Ahmadu
Bolivia	Mr. Carlos Lechuga Hevia
Costa Rica	Mr. Régis de Gouttes
Ghana	Mr. Carlos Lechuga Hevia
